DRAFT
CONFIDENTIAL SETTLEMENT COMMUNICATION
SUBMITTED UNDER FRE 408
NOT ADMISSIBLE IN EVIDENCE

STATEMENT OF WORK

APPENDIX D TO THE CONSENT DECREE FOR THE WALLACE YARD and SPUR LINES SITE

~~SEPTEMBER~~DECEMBER 2008

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TABLE OF CONTENTS

Page

~~Table of Contents~~

TABLE OF CONTENTS
(continued)

Page

~~LIST OF TABLES~~

STATEMENT OF WORK
WALLACE YARD and SPUR LINES
RESPONSE ACTION

1.0 ~~1.0~~ INTRODUCTION, DEFINITIONS, AND GENERAL PROVISIONS

1.1 Introduction

This Statement of Work (""SOW"") details, as Elements of Work, the tasks and activities to be undertaken by Union Pacific Railroad ~~Corporation~~Company and BNSF Railway Company (collectively, "Settling Defendants") at the Wallace Yard and Spur Lines Site (the "Site") in compliance with the Consent Decree (~~CD~~)"CD"). The geographic scope of the Site is generally depicted in Figures 1-1 and 1-2 of the EE/CA, copies of which are included in Attachment A to this SOW. The Elements of Work and their respective Components are as follows:

1.1.1 Wallace Yard Element of Work

1.1.1.1 Removals and Disposal Component of Work

1.1.1.2 ~~1.1.1 Salvage of Track, Ties, and Other Track Material Element~~Other Removals and Disposal Component of Work

~~1.1.2 Flood Damage Repair Element of Work~~

~~1.1.3 Removals, Disposal, and Protective Barriers Element of Work~~

~~1.1.3.1 Sidings Removals and Disposal Component~~
~~1.1.3.2 Other Removals and Disposal Component~~
~~1.1.3.3 Asphalt Barrier Component~~

1.1.1.3 ~~1.1.3.4~~ Gravel and Vegetated Barriers Component of Work

1.1.1.4 Hydroseed Component of Work

1.1.2 Hercules Mill Element of Work

1.1.2.1 Removals and Disposal Component of Work

1.1.2.2 Other Removals and Disposal Component of Work

1.1.2.3 Gravel and Vegetated Barriers Component of Work

1.1.2.4 Hydroseed Component of Work

1.1.2.5 ~~1.1.3.5~~ Access ~~Control~~Controls Component of Work

1.1.3 ~~1.1.4 Residential Use Areas~~Nine Mile Element of Work

~~1.1.5 Maintenance and Repair Element~~
1.1.3.1 Removals and Disposal Component of Work

~~1.1.5.1 Inspections Component~~
~~1.1.5.2 Maintenance and Repair Component~~
~~1.1.5.3 Cost Reporting Component~~
1.1.3.2 Other Removals and Disposal Component of Work

1.1.3.3 Gravel and Vegetated Barriers Component of Work

1.1.3.4 Asphalt Barriers Component of Work

1.1.4 Canyon Creek Element of Work

1.1.4.1 Removals and Disposal Component of Work

1.1.4.2 Other Removals and Disposal Component of Work

1.1.4.3 Gravel and Vegetated Barriers Component of Work

1.1.4.4 Asphalt Barriers Component of Work

1.2 Definitions

Unless otherwise expressly provided herein, terms used in this SOW which are defined in Section IV of the CD shall have the meaning assigned to them in the CD. For convenience, definitions of certain terms defined in the CD, as well as certain other terms that are used in this SOW, are provided, below.

1.2.1 "Ballast" shall mean the rock material originally used by Settling Defendants for track and tie embedment within the ~~Wallace Yard and Spur Lines Site ("the Site")~~Site. Within the Site, ballast ~~may consist~~consists of Mine Waste, material contaminated with Mine Waste, or clean quarried rock. Due to scatter, previous maintenance activities and flood events, the present ballast location may not be limited to the rail section, but may include the adjacent shoulders and other areas within the Site.

1.2.2 "Basin ICP" shall mean the institutional controls program for the Coeur d'Alene Basin Environment administered by the Panhandle Health Department. The Basin ICP includes: (a) the Bunker Hill area of drilling concern, as expanded under the September 2002 Record of Decision for Operable Unit 3 of the Bunker Hill Mining and Metallurgical Complex, which advises of the nonpotable nature of contaminated

aquifers in the Basin and functions as a general prohibition on the use of groundwater within areas such as the Wallace Yard for drinking water or other purposes involving direct human contact; (b) general prohibitions on digging or other actions that would diminish the integrity of soil, gravel, vegetated or asphalt barriers placed as part of the work performed under this SOW or the RUA Program; (c) written instructions for future, physical actions (e.g. construction, landscaping, maintenance) with potential to impair barriers constructed as part of the work performed under this SOW or the RUA Program; and (d) authorities to enforce (a)-(c).

1.2.3 "Canyon Creek" shall mean the former Northern Pacific Railway spur line right-of-way in the Canyon Creek drainage extending from mile marker 0 at the former Wallace-Mullan Branch to approximate mile marker 6.75 near Burke, and the former Washington and Idaho Railroad spur line right-of-way also in the Canyon Creek drainage extending from mile marker 0 at the former Wallace-Mullan Branch to approximate mile marker 6.75 near Burke.

1.2.4 ~~1.2.2 "Clean"~~"Clean," for purposes of material to be used as fill for barriers or capping, shall mean material that contains mean sample concentrations of less than 100 mg/kg zinc, 100 mg/kg lead, 20 mg/kg arsenic, and 5 mg/kg cadmium. No single sample concentration shall exceed 150 mg/kg lead.

1.2.5 ~~1.2.3~~ "Concentrate Accumulation" shall mean a visually identifiable accumulation of ore concentrate material within the Site.

1.2.6 ~~1.2.4 "~~"Day~~"~~" shall mean a calendar day, unless expressly stated to be a Working Day. ~~"~~"Working Day~~"~~" shall mean a day other than a Saturday, Sunday, State, ~~Tribe,~~ or Federal holiday. In computing any period of time under this SOW, where the last day would fall on a Saturday, Sunday, State, ~~Tribal,~~ or Federal holiday, the period shall run until the close of business of the next Working Day.

1.2.7 ~~1.2.5 "~~"Element(s) of Work~~"~~" shall mean the specific work elements as set forth in this SOW. Each Element of Work may have multiple Components as specified in this SOW.

1.2.8 ~~1.2.6~~ "Functional Right of Way Width" ("FROWW") shall mean that portion of the ~~ROW width that is generally~~former railroad right-of-way width actually used for a rail line as evidenced by the visible, existing portions of the rail bed or embankment or the lateral extent of visually identifiable ballast. In addition, for purposes of work to be performed under this SOW, the FROWW must be accessible by humans and therefore represents an area of probable exposure through direct contact with Mine Waste. As ~~an example~~examples, the FROWW will generally not include nor extend beyond the following ~~areas:~~physical boundary limitations:

- a steep (generally steeper than 2H:1V) slope, cut or hillside;
- a water body;

- dense wooded vegetation;
- bedrock at the surface;
- surface material that is predominantly rock particles greater than 6 inches in diameter;
- a paved road;
- ~~•~~ ~~Railroad~~railroad embankment slopes, on the river or creek side, from the top of slope down to the edge of the water;

~~• Paved streets;~~

~~• Slopes steeper than 2H:1V;~~

- ~~•~~ ~~Areas~~areas that are seasonally submerged; ~~and~~
- ~~•~~ ~~Areas~~areas covered with vegetation that is sufficiently dense to preclude easy access to the area~~.~~; and/or
- other limitations approved by EPA.

1.2.9 "Hercules Mill" shall mean the rectangular area depicted on Figure 3-1 of the EE/CA and generally described as extending two hundred fifty (250) feet Northeast of the Old Yellowstone Highway and extending one thousand (1000) feet Southeast of the South Fork of the Coeur d'Alene River.

1.2.10 ~~1.2.7~~ "Holidays" shall mean those days when the offices of the State or Federal Government are closed for normal business.

1.2.11 ~~1.2.8~~ "Hostile Vegetation" shall mean vegetation that either: (1) is specified as such within the Project Material and Placement Specifications, Attachment ~~X~~D to the SOW, (the PMPS); (2) forms a dense coverage; or (3) contains brambles, vines, thorns, or other attributes that discourage human passage.

1.2.12 ~~1.2.9~~ "Mine Waste" shall mean jig and flotation tailings, mine waste rock, ores, and ore concentrates, all of which are derived from mining activities.

~~1.2.10 "Noxious Weeds" shall mean plants identified as Noxious Weed Species as defined by the Idaho Noxious Species Act and are currently listed as noxious weed species by Benewah, Kootenai, or Shoshone Counties.~~

1.2.13 "Ninemile" shall mean the former Northern Pacific Railway spur line right-of-way running in Ninemile Canyon from mile marker 0 at the former Wallace-Mullan Branch railroad right-of-way to mile marker 4.75.

1.2.14 ~~1.2.11~~ "Off-~~site~~Site" shall mean those areas not included within the definition of "On-~~site~~Site".

1.2.15 ~~1.2.12~~ "On-~~site~~Site" means the areal extent of contamination within the Site and all suitable areas in ~~very~~ close proximity to ~~the~~that contamination necessary for implementation of the response ~~action~~actions. For purposes of this SOW and the CD, On-~~site~~Site shall include those areas outside of the Site that have been approved by EPA for use as access roads and staging areas. On-~~site~~Site shall also include those areas ~~within the Bunker Hill Mining and Metallurgical Complex Superfund Site (Basin)~~ that EPA has approved for disposal, storage, or staging of contaminated material that is generated as a result of this Work.

1.2.16 ~~1.2.13~~ ""Performance Standards"" shall mean those cleanup standards, standards of control, and other substantive requirements, criteria or limitations to be achieved by Settling Defendants in implementing the Elements and Components of Work as set forth in the SOW. The Performance Standards for the Work are specified in Section 2. ~~To the extent not defined in this SOW and attachments, Performance Standards shall be set forth, as appropriate, in later amendment(s) to this SOW, or in EPA's approvals and decisions made under this SOW.~~

1.2.17 "PMPs" shall mean the Project Material and Placement Specifications, Attachment D to the SOW.

1.2.18 "Principal Threat Materials" or "PTM" shall mean concentrations of antimony equal to 127,000 mg/kg, arsenic equal to 15,000 mg/kg, cadmium equal to 71,000 mg/kg, lead equal to 84,600 mg/kg, and mercury equal to 33,000 mg/kg.

1.2.19 ~~1.2.14~~ "Remote Areas" shall mean those areas of the Site that are outside of the ~~residential areas~~Residential Areas.

1.2.20 ~~1.2.15~~ "Residential Areas" shall mean those areas of the Site that are within or immediately adjacent to either an incorporated or unincorporated community. ~~The residential areas shall also include that portion of the Site that lies for a distance of 1000 feet along a ROW in each direction from the community. The 1000 feet shall be measured from a line that extends perpendicular from the ROW centerline to the outermost point of the outermost residential structure within the community.~~Any contamination in the Residential Areas will be addressed under the State Residential Use Area Program. **[Cliff – we would like a map showing locations within the Site that the State has completed and locations that are planned]**

1.2.21 ~~1.2.16~~ "Response Action" shall mean those activities~~, except for Maintenance and Repair,~~ to be undertaken by the Settling Defendant to implement the response ~~action~~actions identified in the Action Memo and EE/CA~~,~~ and specified in the SOW.

1.2.22 "RUA Program" shall mean the State program under which residential yard areas are tested and, if needed, remediated for metals in soils, and shall include the relevant provisions of the Basin ICP.

1.2.23 ~~1.2.17~~ "Settling Parties" shall mean the United States, State of Idaho, and Settling Defendants.

~~1.2.18 "Storm Event" shall mean a precipitation event that results in either: (1) 3.0 inches of rainfall within a 24 hour period as measured either by the National Weather Service (NWS) gauge at Coeur d'Alene, Idaho or the fire station at Kellogg, Idaho or (2) a river flood stage elevation of 43 feet or greater as measured at the United States Geologic Survey (USGS) gauge number 12413500 on the Coeur d'Alene River at Cataldo, Idaho. The USGS gauge readings are reduced by the USGS to the base datum of the gauge at 2,100.00 feet above the National Geodetic Vertical Datum of 1929.~~

~~1.2.19 "Tribe" shall mean the Coeur d'Alene Tribe.~~

~~1.2.20 "Work Area" shall mean the geographic area in which work is performed under the CD and this SOW. The Work Area shall include: (1) the Site; (2) areas outside of the Site that have been approved by EPA for use as access roads and staging areas; (3) those areas within very close proximity to the Site that EPA has approved for disposal, storage, or staging of contaminated material that is generated as a result of this Work. Work Area does not include …~~

1.2.24 "Site" or "Wallace Yard and Spur Lines Site" shall mean: (1) the Wallace Yard, (2) the Hercules Mill, and (3) the Spur Lines. The geographic scope of the Site is depicted generally on Figures 1-1 and 1-2 of the EE/CA, copies of which are attached to the SOW as Attachment A.

1.2.25 "Spur Lines" shall mean the three independent former spur line rights-of-way running from the former Wallace-Mullan Branch railroad right-of-way and extending up Ninemile and Canyon Creek drainages, better described as: (1) the former Northern Pacific Railway spur line right-of-way running in Ninemile Canyon from mile marker 0 at the former Wallace-Mullan Branch railroad right-of-way to mile marker 4.75; (2) the former Northern Pacific Railway spur line right-of-way in the Canyon Creek drainage extending from mile marker 0 at the former Wallace-Mullan Branch railroad right-of-way to approximate mile marker 6.75 near Burke; and (3) the former Washington and Idaho Railroad spur line right-of-way in the Canyon Creek drainage extending from mile marker 0 at the former Wallace-Mullan Branch railroad right-of-way and extending to approximate mile marker 7.25 near Burke.

1.2.26 "Wallace Yard" shall mean that area located between mile marker 78.5 and mile marker 79.8 of the former Wallace-Mullan Branch railroad right-of-way, excluding the Hercules Mill. Wallace Yard is generally depicted on Figure 1-1 of the EE/CA, a copy of which is included in Attachment A.

1.2.27 "Waste Material" shall mean (1) Mine Waste; (2) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (3) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); (4) any "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27); (5) any "hazardous waste" under Section 1004(5) of RCRA, 42 U.S.C. § 6904(5) or hazardous constituent as defined at 40 C.F.R. § 260.10 pursuant to RCRA; and (6) any "hazardous material," "hazardous waste," "solid waste," or "toxic" material under applicable Federal or State law.

1.2.28 "Work" for purposes of this SOW shall mean all activities that Settling Defendants are required to perform under the CD as set forth in this SOW.

1.3 Attachments to the SOW

The following attachments to this SOW serve to further define the requirements of the Work to be performed by the Settling Defendants and are hereby made a part of this SOW.

- Attachment A: Site Map

- Attachment B: ~~Track Salvage Work Plan~~ ~~Attachment C:~~ Response Action Work Plan ~~for the Removals, Disposal, and Protective Barriers Element of Work~~ (hereinafter, "RA Work Plan")

- Attachment ~~D~~C: Response Action Design Drawings (hereinafter, "RAD Drawings")

- Attachment ~~E: Maintenance and Repair Plan (hereinafter, "M&R Plan")~~

~~• Attachment F: Wetlands Plan~~ ~~• Attachment G:~~ D: Project Material and Placement Specifications ("PMPS")

1.4 General Provisions

1.4.1 Whenever this SOW uses the terms ~~"~~"include~~"~~" or ~~"~~"includes,~~"~~" they shall mean ~~"~~"include, but are not limited to,~~"~~" and ~~"~~"includes, but is not limited to,~~"~~" respectively.

1.4.2 The Work shall be performed in accordance with the CD, including, but not limited to, this SOW; all standards, plans, specifications, and schedules set forth in or developed pursuant to the CD and this SOW; and any modifications or amendments thereto made pursuant to the terms of this SOW and the CD.

1.4.3 Except as otherwise provided for in Section 5, the Work ~~under this SOW~~ and any final plans, designs, reports, schedules, or proposals developed under this SOW shall be implemented only after receipt of EPA's written approval.

1.4.4 The Settling Parties have made a good faith effort to precisely define the Work ~~to be performed by Settling Defendants~~. They acknowledge, however, that despite these efforts, new conditions or information discovered during performance of the Work may dictate changes in the Work. When such new conditions or information ~~is~~are discovered by any Settling Party, it shall promptly notify the other Settling ~~Party~~Parties of the discovery. Provided that the Settling Parties agree that new conditions or information have been identified, the Settling Parties shall engage in a good faith effort to define and agree what changes in the Work are necessitated by the changed conditions or new information. All such changes in the Work shall be consistent with the Scope of the Response Action as defined within Paragraph ~~14~~15(b) of the CD. If agreement on the required changes in the Work is reached~~,~~ and if the reopener conditions in Paragraph 86 or 87 of the Consent Decree are satisfied, then the implementation of the changes shall be performed in accordance with either the provisions within Section 1.4.5.3 (for non-material field changes) or Section 1.4.5 (for Technical ~~Memorandums~~Memoranda) as applicable. Should the Settling Parties fail to reach an agreement as to either the necessity or scope of changes in the Work that is required as a result of the new conditions or information, the Settling Parties shall use the dispute resolution provisions of Section XIX of the CD.

1.4.5 Settling Defendants may propose modifications to the Work ~~being performed under this SOW~~ or to final plans, designs, reports, or schedules developed under this SOW through a Technical Memorandum (~~"~~"TM~~"~~"), and shall obtain EPA's written approval of the TM prior to implementing such modifications. The following applies to the use of TMs:

1.4.5.1 Settling Defendants may use a TM to propose that meeting an applicable or relevant and appropriate requirement (~~"~~"ARAR~~"~~") under CERCLA is not practicable.

1.4.5.2 Settling Defendants shall not use a TM in lieu of submitting the plans, designs, reports, and schedules required by this SOW.

1.4.5.3 A TM is not required for non-material field changes approved by EPA or for schedule changes that expedite the submission of deliverables and/or milestone events.

1.4.6 Settling Defendants shall begin performance of the Work~~,~~ as set forth in Section 5.

1.4.7 Except as provided in Section XIV, Paragraphs ~~51~~52 and ~~52~~53 (Certification of Completion) of the Consent Decree, Settling Defendants~~'~~' obligation

to perform ~~and pay for~~ the ~~Work~~work associated with a given Element of Work ~~or portion thereof~~ shall cease as of the effective date of EPA's written approval of the Completion of Obligation Report for that Element of Work ~~or portion thereof~~.

1.4.8 Neither the SOW, the plans, any standards, specifications, and schedules, nor any approvals, permits or other permissions that may be granted by EPA related to the CD constitute a warranty or representation of any kind by EPA that this SOW, plans, standards, specifications, schedules, or EPA response action decision documents, when implemented, will achieve the Performance Standards established or to be established, and shall not foreclose EPA from seeking performance of all terms and conditions of the CD or EPA response action decision, provided that the enforcement of such performance standards is not otherwise precluded by the CD. However, the Settling Parties anticipate that compliance with the work requirements set forth in this SOW will achieve the Performance Standards. The Work ~~performed by the Settling Defendants pursuant to the CD~~ shall include the obligation to achieve the Performance Standards.

1.4.9 All Work, tasks, and activities undertaken by Settling Defendants pursuant to this SOW and the CD, shall be performed in accordance with all applicable federal, state~~,~~ and local~~, and tribal~~ laws and regulations.

1.4.10 In accordance with § 300.415(j) of the NCP, removal actions taken pursuant to CERCLA section 106 under this SOW and the CD shall, "...to the extent practicable considering the exigencies of the situation, attain applicable or relevant and appropriate requirements ("~~"~~ARARs~~"~~") under federal environmental or state environmental or facility siting laws. Waivers described in § 300.430(f)(1)(ii)(C) of the NCP may be used for removal actions. Other federal and state advisories, criteria, or guidance may, as appropriate, also be considered in formulating a removal action."

1.4.11 To the extent practicable, considering the exigencies of the situation, the Work shall attain applicable or relevant and appropriate requirements under state environmental or facility siting laws as well as advisories, criteria or guidance. Only those state standards that are promulgated, are identified by the state in a timely manner, and are more stringent than federal requirements may be applicable or relevant and appropriate.

1.4.12 The CD, including this SOW, is not, and shall not be construed to be, a permit issued pursuant to any federal, state~~, tribal~~ or local statute or regulation.

1.4.13 As provided in Section 121(e) of CERCLA and § 300.400(e) of the NCP, no Federal, State, or local permits shall be required for any portion of the Work conducted entirely On~~-site.~~ Site.

1.4.14 Where any portion of the Work requires a Federal, State~~,~~ or local ~~or Tribal~~ permit or authorization, Settling Defendants shall submit timely and complete applications for such permits or authorizations and take all other actions necessary to obtain all such permits or authorizations. Settling Defendants or their designee(s) shall be required to obtain and hold any permits needed for implementation of the Work. Settling Defendants may seek relief under the provisions of Section XVIII (Force Majeure) of the CD for any delay in the performance of the Work resulting from a failure to obtain, or a delay in obtaining, any permit required for the Work.

1.4.15 Wherever commencement of Work or the Period of Performance in this SOW is linked to Settling Defendants' submission of an Initiation of Operation Report, the date that such Work or Period of Performance commences is subject to EPA's written acceptance of that Report. If EPA agrees that necessary conditions have been satisfied, the date Work commenced or Performance ended will be retroactive to the date of Settling Defendants' submission of the Initiation of Operation Report. If EPA does not agree, then the date shall extend until EPA determines that the necessary conditions have been satisfied.

1.4.16 When Settling Defendants conclude that all ~~or a portion~~ of an individual Element of Work has been fully performed and the Performance Standards have been attained, Settling Defendants shall schedule and conduct a pre-certification inspection to be attended by Settling Defendants, EPA and the State in accordance with the procedures specified in Section XIV of the CD. If, after the pre-certification inspection, Settling Defendants still believe that all ~~or a portion~~ of an individual Element of Work has been fully performed and the Performance Standards have been attained, it shall submit a Completion of Obligation Report requesting certification of such completion to EPA in accordance with the procedures specified in Section XIV of the CD. ~~Unless otherwise approved by EPA, Settling Defendants may only undertake the certification process on those portions of an Element of Work identified in Sections 5.6 and 5.8 (Removals, Disposal, and Protective Barriers Element of Work within the Upper Basin.~~ In the Completion of Obligation Report, a registered Professional Engineer and the Settling Defendant's Project Coordinator shall state that ~~portion of~~ the Element of Work covered by the report has been completed in full satisfaction of the requirements of the CD. The written report shall include as-built drawings, if applicable, that are signed and stamped by a Professional Engineer registered in the State of Idaho. The Completion of Obligation Report shall contain the following statement, signed by ~~a~~ responsible corporate ~~official~~officials of each Settling ~~Defendants~~Defendant or the Settling Defendants' Project Coordinator:

To the best of my knowledge, after thorough investigation, I certify that the information contained in or accompanying this submission is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

1.4.17 All as-built drawings shall be signed and stamped by a registered Professional Engineer of the State of Idaho.

1.4.18 Settling Defendants shall ~~integrate and~~ coordinate, as appropriate, each Element of Work with all other Elements of Work.

1.4.19 Settling Defendants shall, prior to any shipment by them of Waste Material resulting from the Work to an out-of-state waste management facility, provide written notification to the appropriate state environmental official in the receiving facility's state and to EPA of such shipment of Waste Material.

The written notification shall include the following information, where available: (1) the name and location of the facility to which the Waste Material is to be shipped; (2) the type and quantity of the Waste Material to be shipped; (3) the expected schedule for the shipment of the Waste Material; and (4) the method of transportation. Settling Defendants shall notify the state in which the planned receiving facility is located of major changes in the shipment, such as a decision to ship the Waste Material to another facility within the same state or to a facility in another state.

The identity of the receiving facility and the state will be determined by Settling Defendants. Settling Defendants shall provide the information required, above, as soon as practicable before the Waste Material is actually shipped.

1.4.20 Unless otherwise specified in writing by EPA, Settling Defendants shall submit to EPA ~~X~~two (2) copies of all Deliverables~~,~~ and ~~X copies of~~ other submissions required by this SOW. Settling Defendants shall simultaneously submit two (2) copies of all such Deliverables and other submissions to the State.

1.4.21 Any repairs or disruptions to community or private infrastructure, such as roads and utilities, that result from the implementation by Settling Defendants of the Work under this SOW shall be performed and coordinated with the affected community, private entity, and government agencies in a timely manner with minimal disruption to service.

1.4.22 Actions undertaken by Settling Defendants within the Site shall be coordinated with implementation of the State Residential Use Area Program and other response actions in adjacent areas as practicable.

2.0 ~~2.0~~ DESCRIPTION OF WORK TO BE PERFORMED, PERFORMANCE STANDARDS AND OBJECTIVES

This Section sets forth the Elements and Components of Work to be performed pursuant to the CD and states the Objectives and Performance Standards for each ~~element of the Work~~.

2.1 ~~2.1~~ General Standards Applicable to all Elements and Components of Work

2.1.1 ~~2.1.1~~ Settling Defendants shall demonstrate achievement of the Performance Standards set forth in this Section 2.

2.1.2 ~~2.1.2~~ Unless otherwise specified within a specific work plan for a given Element of Work, achievement of the Performance Standards shall be demonstrated at representative locations and using methods that are proposed by Settling Defendants and are subject to the review and approval of EPA.

2.1.3 ~~2.1.3~~ All Work performed and proposals made by Settling Defendants are subject to EPA's written approval.

2.1.4 ~~2.1.4~~ All Work performed by Settling Defendants shall be performed in accordance with the deliverables and schedules set forth under Sections 4 and 5, respectively.

2.1.5 ~~2.1.5~~ Unless otherwise specified, Settling Defendants shall dispose of, or arrange and provide for the disposal of, Waste Materials generated from ~~implementing~~their performance of the Work.

~~2.1.6 In the event that the performance of Work under this SOW results in the damage or destruction of any building, structure, or other similar facility within the Site, Settling Defendants shall either repair or replace, as necessary, such building, structure, or other similar facility with one that provides the same function in a manner that is subject to the approval of EPA provided that EPA believes that such building, structure, or other similar facility is needed for a future use. If Settling Defendants disagree with EPA as to the need for the building, structure, or other similar facility and the Settling Parties subsequently fail to reach an agreement as to either the necessity for or scope of the repair or replacement of such building, structure, or other similar facility, Settling Defendants may seek dispute resolution under Section XIX of the CD. Notwithstanding the above, Settling Defendants shall not dispute the need for such a building, structure, or other similar facility that is part of an established use at the time of lodging of the CD and EPA decides that such use will be allowed to continue during trail operation.~~

2.1.6 ~~2.1.7~~ Unless otherwise specified in the RA Work Plan or RAD Drawings, Waste Material generated in the performance of the Work by Settling Defendants that requires disposal shall either be disposed of On-~~site~~Site or Off-~~site~~Site in accordance with the following requirements:

2.1.6.1 ~~2.1.7.1~~ If disposed of Off-~~site~~Site such disposal shall be in compliance with all applicable laws and regulations including the Off-~~site~~Site Disposal Rule (40 C.F.R 300.440); or

2.1.6.2 ~~2.1.7.2~~ If disposed of On-~~site~~Site, such disposal shall occur within a designated disposal area that is located within the Basin or otherwise managed On-~~site~~Site in accordance with procedures approved by EPA. Disposal within any designated On-~~site~~Site disposal areas shall be in accordance with material handling and waste acceptance requirements specified by EPA ~~and~~in consultation with the Idaho Department of Environmental Quality (IDEQ) for the respective disposal area.

2.1.7 ~~2.1.8~~ Unless otherwise approved by EPA, Settling Defendants shall implement, install, and/or use the controls specified below during all construction activities.

~~2.1.8.1 Any necessary archeological inspections shall be coordinated with the Tribe and any other parties that have applicable authorities under state or federal law as follows. Portions of the Work Area are associated with historic and prehistoric uses and may contain archeological deposits that may represent a cultural resource of importance to the Coeur d'Alene Tribe. Should any bones, shards, implements, or other archeological deposits be discovered during the construction phase of the Work, all construction activities within the immediate area of the discovery shall stop and the designated Tribal cultural or natural resources staff as well as any other parties that have applicable authorities under state or federal law shall be notified. The Tribe or any other parties that have applicable authorities under state or federal law shall be given a reasonable opportunity to document or recover the finds. If significant artifacts are found that are intermingled with contaminants, Settling Defendants will work with the Tribe to evaluate options for their removal or protection. In the event that human remains are located, work shall be halted within a sufficient surrounding area to maintain the integrity of the remains and the Tribe shall be promptly notified. Construction in the affected area may be resumed upon approval of the Tribal cultural resources director.~~

2.1.7.1 Any necessary archeological inspections shall be coordinated with the agencies that have applicable authorities under state or federal law.

2.1.7.2 ~~2.1.8.2~~ Access to active work areas shall be restricted through the use of appropriate measures (e.g., fencing, barricades, etc.). For purposes of this provision, active work areas shall mean those On-Site areas ~~of the Work Area~~ in which construction associated with the Work is occurring and such construction activities would represent a potential safety hazard to the general public if access were not controlled. Active work areas shall also include those ~~portions of the Work Area~~On-Site areas where, as a

result of the ongoing construction activities, exposure to contaminants is temporarily greater than that which existed prior to the implementation of the construction activities.

2.1.7.3 ~~2.1.8.3~~ Controls as outlined in work specific health and safety plans shall be implemented to prevent unacceptable contaminant exposures to workers within ~~the Work Area~~those On-Site areas described in 2.1.7.2 and adjacent communities.

~~2.1.8.4 Mitigation measures as specified in the applicable work plans shall be implemented to fulfill the requirements of the "Biological Assessment for Threatened, Endangered, and Species of Concern, Wallace Mullan Branch, Implementation of Response Action and Rails to Trails Conversion," prepared by MFG, Inc., 1999 (the "BA").~~

2.1.7.4 ~~2.1.8.5~~ Removals and other excavations conducted as part of the construction activities shall be performed in a manner that allows for proper drainage from the excavated area. Except as required to protect barriers that are installed as part of the Work or to otherwise correct drainage problems that result from the Work, this provision is not intended to create an obligation for Settling Defendants to improve existing drainage patterns.

2.1.7.5 ~~2.1.8.6~~ Construction activities associated with the Work shall be performed in a manner that minimizes the damage to existing vegetation that is located outside of the following areas: where protective barriers or removals are to be performed as part of the implementation of the RA Work Plan; or areas that are to be disturbed as part of approved access and staging areas. Damage to such existing vegetation shall be mitigated as follows:

2.1.7.5.a ~~2.1.8.6.a~~ Areas ~~located outside of wetlands~~ that contain grass, forbs, and low shrubs shall be seeded with the seed mix specified within the PMPS for the type of habitat encountered (riparian or upland).

~~2.1.8.6.b Wetland areas shall be mitigated in accordance with the provisions of the Wetlands Plan, Attachment F to this SOW.~~

2.1.7.5.b ~~2.1.8.6.c~~ In areas where hostile vegetation previously provided access control, hostile vegetation as specified within the PMPS shall be used to mitigate the damage.

2.1.7.5.c ~~2.1.8.6.d~~ Areas, other than Wallace Yard and Hercules Mill, where a stand of existing trees in excess of ~~four~~4 inches in trunk diameter are destroyed shall be mitigated by the installation of small tree plantings as specified in the PMPS on a density that is consistent with the density of the destroyed trees, unless otherwise approved by EPA. This requirement shall not apply to individual trees that may be destroyed incidentally due to damage in the other areas as described in ~~2.1.8.6.~~2.1.7.5.a through ~~c~~b.

~~2.1.8.7 Construction activities located within surface water, water ways, or wetlands shall be performed using the controls specified within the Wetlands Plan.~~

2.1.7.6 ~~2.1.8.8~~ Construction activities shall be conducted in a manner that does not result in the re-contamination of areas of removal or protective barriers. Any such re-contaminated areas shall be addressed by Settling Defendants in a manner that is subject to the review and approval of EPA.

2.1.7.7 ~~2.1.8.9~~ Construction quality control and quality assurance monitoring shall be conducted in accordance with the provisions of the Project Quality Assurance/Quality Control Plan and be coordinated with EPA's oversight of the Work; however, oversight by EPA shall not in any way relieve the obligation of Settling Defendants to conduct the Work in accordance with the provisions of the CD and Work Plans.

2.1.7.8 ~~2.1.8.10~~ All construction activities shall be conducted in a manner such that active work sites are maintained in an orderly manner. The sites shall be kept free from accumulations of waste materials, rubbish, and other debris resulting from the work. At the completion of the work, waste materials, rubbish, and debris from and about the work area as well as tools, appliances, construction equipment, machinery and surplus materials shall be removed. Any material requiring disposal shall be disposed of in accordance with applicable provisions of this SOW.

2.1.7.9 ~~2.1.8.11~~ Best Management Practices (BMPs) shall be used as specified below during all construction activities to minimize the transport of disturbed material by water, wind erosion, or vehicles.

2.1.7.9.a ~~2.1.8.11.a. The Work~~Settling Defendants shall ~~be conducted~~perform the Work in a manner that minimizes the generation of fugitive dust. If the application of water or other dust suppressants to work areas is used to control the generation and migration of fugitive dust, such application of dust suppressants shall comply with the following requirements:

2.1.7.9.a.(i) ~~2.1.8.11.a.(i)~~ Dust suppressants containing brine, or other materials that are harmful to surface water or vegetation shall not be used.

2.1.7.9.a.(ii) ~~2.1.8.12.a.(ii)~~ Application of dust suppressants shall be performed in a manner that minimizes surface water runoff, over spray of chemical suppressants into surface water bodies, wetlands or other sensitive habitats, and/or generation of muddy conditions.

2.1.7.9.b ~~2.1.8.11.b~~ The following BMPs shall be used to minimize the transport of sediment from work areas:

2.1.7.9.b.(i) ~~2.1.8.11.b.(i)~~ Staging areas, accumulation areas and other areas where work is to be performed on exposed slopes shall be isolated with appropriate BMPs to minimize transport of potentially contaminated sediments from the work areas by surface water runoff.

2.1.7.9.b.(ii) ~~2.1.8.11.b.(ii)~~ Construction activities within the ballast section of the rail bed generally will not require isolation as the coarse, granular nature of the ballast is not conducive to transport by surface water runoff during normal storm events. However, care shall be taken to conduct the construction activities in a manner that minimizes dispersal of the ballast.

2.1.7.9.b.(iii) ~~2.1.8.11.b.(iii)~~ The required sedimentation controls shall be maintained throughout the construction activities. Inspection of the sedimentation controls shall occur as necessary to ensure proper function. Repairs, removal, and disposal of accumulated sediments

shall be conducted to maintain the function of the controls.

~~2.1.8.11.b.(iv) Work that occurs within surface water bodies shall be performed in accordance with the requirements within the Wetlands Plan (Attachment F to the SOW) to minimize sediment migration from the work area and mitigate damage to existing vegetation. All such work shall be performed in a manner that limits harm to wetlands and surface water. In addition the work shall be performed in a manner that prevents the release of sediments beyond the work area such that the turbidity outside of and adjacent to the sediment control measures does not exceed a weekly average of 25 NTU or a daily maximum of 50 NTU.~~

2.1.7.9.b.(iv) ~~2.1.8.11.b.(v)~~ Any dewatering or diversion of surface water and groundwater shall be performed in a manner that ~~prevents~~minimizes the release of sediments beyond the work area such that the turbidity outside of and adjacent to the sediment control measures does not exceed a weekly average of 25 NTU or a daily maximum of 50 NTU.

2.1.7.10 ~~2.1.8.12~~ Decontamination of equipment prior to the equipment leaving a controlled work area, shall be performed to control physical tracking of contaminants off of the Site. For purposes of this provision, a controlled work area shall mean an area where contaminated material has been disturbed by the construction activities. Adequate decontamination will be determined by visual inspection. Equipment staining without the surface accumulation of material shall not require decontamination. Surface accumulations of materials on the tires and truck body shall be removed either by brushing (or similar activity) or by washing with water.

2.1.7.11 ~~2.1.8.13~~ All loads of materials that are transported for disposal shall be properly covered to control spills and dust migration. Loads of material delivered to the work area shall be properly covered or otherwise managed to minimize the generation of fugitive dust. Covers shall be appropriate size for the dump bed and shall be in good working condition.

2.1.7.12 ~~2.1.8.14~~ All construction activities associated with the Work to be performed by Settling Defendants shall be conducted in accordance with applicable spill control and countermeasure procedures that shall be specified in the work plan for that activity.

2.1.7.13 ~~2.1.8.15~~ Settling Defendants shall provide, install, and maintain barricades, signage, flashers, and other temporary safety measures during the implementation of the Work, in accordance with the Manual of Uniform Traffic Control Devices (MUTCD), and appropriate State and local regulations regarding traffic safety during construction.

~~2.2 Salvage of Track, Ties and Other Track Material Element of Work~~

~~2.2.1 General Description~~

~~The Salvage of Track, Ties, and Other Track Material Element of Work involves the removal of the rail and track structure. This element of work will be performed in accordance with the procedures described within the Track Salvage Work Plan, Attachment B to this SOW.~~

~~2.2.2 Performance Objectives~~

~~The performance objectives of the Salvage of Track, Ties, and Other Track Material Element of Work are to:~~

- ~~Salvage the track materials in a manner that prevents the migration of contaminants from the Site to air, land, and water thereby minimizing the redistribution of the contaminants within the Site or adjacent properties;~~
- ~~Ensure that materials salvaged for reuse or recycling are appropriately decontaminated and re-used in railroad or industrial uses;~~
- ~~Ensure proper disposal of materials that cannot be salvaged for re-use or recycling and any Waste Materials that may be generated during implementation of this Element of Work;~~
- ~~Minimize the damage to roads, utilities, structures, amenities, and vegetation;~~
- ~~Minimize disturbance to existing vegetation that will be used as part of the protective barriers;~~
- ~~Minimize the dispersal of contamination to those portions of the Site that are not projected to receive response actions;~~

- Minimize disruptions and construction related impacts to local traffic, drainage patterns, roads, property owners, and communities; and

- Remove and properly dispose of any concentrate accumulations that may be identified by visual or other means during implementation of this Element of Work.

2.2.3 **Performance Standards**

Performance standards for the Salvage of Track, Ties, and Other Track Material Element of Work are as follows:

2.2.3.1 The salvage of Track, Ties, and Other Track Material shall be conducted in accordance with the Track Salvage Work Plan, Attachment B to the SOW.

2.2.3.2 Locations of points of access to the Site for salvage equipment and hauling trucks as well as staging areas for the salvage operations shall be specified in an Access and Staging Plan (ASP) that is subject to the review and approval of EPA prior to the start of salvage operations. Upon approval, the ASP will become an attachment to the Track Salvage Work Plan.

2.2.3.3 Any required temporary staging areas, turnouts, equipment decontamination areas, etc. (Support Areas) and access roads located outside of the Site that are constructed for salvage operations, shall be located to minimize impacts to surface waters, wetlands, and/or other sensitive habitats. Off-Site Support Areas and Access Roads shall be decontaminated and the decontamination shall be verified by sampling and analysis in accordance with procedures that are subject to the review and approval of EPA. Such decontamination shall not require the removal of contaminant concentrations that existed in the area disturbed by the Off-Site Support Areas prior to the use of the Off-Site Support Areas and Access Roads. Unless otherwise specified by the access agreement with the off-Site landowner (provided such agreements comply with applicable laws and regulations) the area disturbed by these Off-Site Support Areas and Access Roads shall be regraded to promote positive drainage, capped with material that is compatible with current use, and resurfaced or re-vegetated by seeding with the seed mix specified within the PMPS for the type of habitat encountered (riparian or upland).

2.2.3.4 Any required temporary staging areas, turnouts, equipment decontamination areas, etc (Support Areas) and haul roads located within the Site shall be:

2.2.3.4.(a) Located to minimize impacts to surface waters, wetlands, or other sensitive habitats.

2.2.3.4.(b) Removed when they are no longer required for implementation of the Work unless otherwise approved by EPA.

2.2.3.4.(c) Located so as to minimize the disturbance of existing vegetation that is located outside of the areas where protective barriers or removals are to be performed as part of the implementation of the RA Work Plan. Disturbance of existing vegetated areas that are to serve as part of a protective barrier (identified in the RAD Drawings) shall require extension of the placed protective barrier into the area of disturbance as part of the Removals, Disposal, and Protective Barriers Element of Work.

2.2.3.4.(d) Located, if practicable, in areas that are to receive protective barriers or removals.

2.2.3.5 The area disturbed by On-Site Support Areas and Haul Roads that are not located in those portions of the Work Area that are to receive placement of protective barriers or removals under the Removals, Disposal, and Protective Barriers Element of Work shall be:

2.2.3.5.a Decontaminated or otherwise addressed as follows:

2.2.3.5.a (i) If the On-Site Support Areas and Haul Roads within that portion of the Site result in disturbance of an area such that there is an increase in exposure potential over that which existed prior to the use of the On-Site Support Areas and Haul Roads, then one of the following measures shall be taken:

- A protective barrier will be placed over the disturbed area under the Removals, Disposal, and Protective Barriers Element of Work;
- Hostile vegetation will be placed within the disturbed area under the Removals, Disposal, and Protective Barriers Element of Work; or
- The area will be decontaminated to the concentrations that existed prior to the use of the area for a support area or haul road. Such decontamination shall be verified by sampling and analysis in accordance with

~~procedures that are subject to the review and approval of EPA.~~

~~2.2.3.5.b. Graded to drain and re-vegetated as follows:~~

~~2.2.3.5.b.(i) Areas that contain grass, forbs, and low shrubs shall be seeded with the seed mix specified within the PMPS for the type of habitat encountered (riparian or upland).~~

~~2.2.3.5.b.(ii) In areas where dense or hostile vegetation previously provided access control, hostile vegetation as specified within the PMPS shall be used for re-vegetation~~

~~2.2.3.5.b.(iii) Areas where a stand of existing trees in excess of four inches in trunk diameter are removed shall be re-vegetated by the installation of small tree plantings as specified in the PMPS on a density that is consistent with the density of the removed trees, unless otherwise approved by EPA.~~

2.1.7.14 ~~2.2.3.6~~ Decontamination of salvageable material (i.e. track, ties, and other track material), if any, shall be performed, as necessary, to remove surface accumulations of material. Adequate decontamination shall be determined by visual inspection. Handling of the materials will generally result in a surface that requires no further decontamination effort. Staining alone without the accumulation of surficial material will not require decontamination. If necessary, accumulations of surficial material on ~~the~~any salvageable materials shall be removed either by brushing (or similar activity), or by pressure washing with water.

2.1.7.15 ~~2.2.3.7~~ Any track, ties, or other track materials~~,~~ that are decontaminated in accordance with the requirements of Section ~~2.2.3.6~~2.1.7.14 and such decontamination is verified by EPA, shall be considered not to be contaminated with or to contain RCRA hazardous waste metals under 40 CFR 261.3(f)(2) and IDAPA ~~16.01.05.05.~~58.01.05.005.

2.1.7.16 ~~2.2.3.8 Intact~~Any intact ties (as opposed to broken tie debris that are less than a nominal ~~nine~~9 inches in any dimension) that are removed from the rail bed as part of the ~~salvage operations~~response actions shall be managed as follows in order to minimize uncontrolled access to these ties by the general public:

2.1.7.16.a ~~2.2.3.8.a~~ Within ~~residential areas~~Residential Areas or areas of the Site that have ready access from public roads, any ties that are removed from the ballast shall be removed from the Site to a staging area or other location

having controlled access ~~by~~within 24 hours of the end of each construction day.

2.1.7.16.b ~~2.2.3.8.b In remote areas,~~In Remote Areas, any ties that are removed from the ballast shall be removed from the Site to a staging area or other location having controlled access within a period of ~~three~~five (5) days of removal from the ballast.

2.1.7.17 ~~2.2.3.9 Visually~~Any visually identifiable accumulations of ore concentrate material that are found during implementation of ~~track salvage~~the response actions shall be removed and properly disposed of as follows:

2.1.7.17.a ~~2.2.3.9.a~~ The concentrate accumulations, if any, shall be removed prior to the performance of any further work that could cause dispersal of the concentrates. Such removals shall ~~be performed in accordance with the requirements specified within the Concentrate Accumulation Removal Plan (CAR Plan) which is an appendix to the Track Salvage Work Plan and~~ meet the following performance requirements:

2.1.7.17.a.(i) ~~2.2.3.9.a.(i)~~ Removals of concentrate accumulations shall extend to a minimum of 12 inches laterally from the edges of the visually identifiable concentrate and to a minimum depth of 6 inches below the vertical extent of the visually identifiable concentrate.

2.1.7.17.a.(ii) ~~2.2.3.9.a.(i)~~ If placed on the ground, excavated concentrate material shall be underlain by plastic sheeting.

2.1.7.17.b ~~2.2.3.9.b~~ Any temporary stockpiles of excavated concentrate material that will remain overnight shall:

2.1.7.17.b.(i) ~~2.2.3.9.b.(i)~~ Be located, bermed or ditched to prevent run-on of surface water into the material.

2.1.7.17.b.(ii) ~~2.2.3.9.b.(ii)~~ Except when placement of material into the

stockpile is occurring, the stockpile shall be completely covered with plastic sheeting to prevent precipitation from falling on the material and to prevent run-off of contaminated water and sediment.

2.1.7.17.c ~~2.2.3.9.c~~ Any excavated concentrate material that is temporarily stockpiled within a portion of the Site that does not have controlled access shall be removed within ~~24~~48 hours of excavation.

2.1.7.17.d ~~2.2.3.9.d Concentrates~~Any concentrates shall be disposed of in accordance with procedures specified within the ~~CAR~~Response Action Work Plan.

2.1.7.18 ~~2.2.3.10~~ Prior to the start of field activities as defined in the Project Construction Schedule submitted in accordance with Section 5 Settling Defendants shall:

2.1.7.18.a ~~2.2..3.10.a.~~ Post signs at locations specified in the ~~ASP~~Response Action Work Plan (Attachment B to this SOW) that identifies a point of contact including a telephone number for ~~a~~ Settling Defendants' representative to respond to questions by the public pertaining to the Work.

2.1.7.18.b ~~2.2.3.10.b~~ Notify the appropriate representative of incorporated communities and counties along the Site of the start of the Work.

~~2.2.3.11 Prior to the start of track salvage activities as defined in the Project Construction Schedule submitted in accordance with Section 5, Settling Defendants shall develop and implement a public information presentation in the City of Wallace. The public presentation shall provide for the following:~~

~~2.2.3.11.a A general description and schedule for the Work.~~

~~2.2.3.11.b Identification of points of contact for Settling Defendants during the construction activities.~~

~~2.2.3.11.c An awareness of safety precautions that should be observed near construction activities and any human health concerns that may be associated with the construction.~~

~~2.2.3.11.d. The posting of signs at the public access points to work areas that identify Settling Defendants or their representative as a point of contact for the public during the construction activities.~~

~~2.3 Flood Damage Element of Work~~

~~2.3.1~~

2.2 Wallace Yard Element of Work

2.2.1 General Description

~~The Flood Damage Repair Element of Work involves the repair of flood damaged portions of the rail bed embankment in order to maintain the integrity of the railroad grade and to minimize the migration of contaminants from the ROW. This Element of Work includes one or more of the following actions: repair of embankments; removal of past accumulations of flood debris from bridges; establishment of vegetation for embankment stabilization; installation of riprap armor protection; the clean-out of sediments and debris from existing culverts; repair of existing culverts and new culvert installation; and the removal of any remaining visually identifiable concentrate accumulations. This Element of Work will be performed in accordance with the Removals, Disposal, and Protective Barriers Response Action Work Plan (RA Work Plan) (Attachment C to this SOW).~~

~~2.3.2 Performance Objective~~

~~The performance objective for the Flood Damage Repair Element of Work is to stabilize the existing rail bed and control damage to the railroad grade during future flood events in order to prevent migration of subgrade materials to areas outside of the railroad embankment.~~

The Wallace Yard Element of Work includes the isolation of Mine Waste from certain potential exposure pathways through removals and disposal as well as the placement of protective barriers. The components of this Element of Work are specified in the Response Action Design Drawings (RAD Drawings) (Attachment C to this SOW). A design narrative and supporting details for the RAD Drawings are provided in the Response Action Work Plan (RA Work Plan) (Attachment B to this SOW). This Element of Work includes the following:

- Removal of contaminated soil from common use areas in Wallace Yard as specified in the RAD Drawings and RA Work Plan; **[Cliff – following the termination of leases and demolition of houses, no residential use areas will remain]**
- Disposal of the removed material either On-Site (locations approved by EPA) or Off-Site; and
- Placement of vegetated, gravel, and asphalt barriers at specified locations in common use areas within Wallace Yard.

2.2.2 Performance Objectives

The objectives of the Wallace Yard Element of Work and its components are to:

- Prevent unacceptable human exposure to Mine Waste and material contaminated with Mine Waste, as described below in Section 2.2.3;
- Minimize migration of Mine Waste and material contaminated with Mine Waste on and off of the Wallace Yard;
- Minimize the damage to non-abandoned structures, amenities, and vegetation;
- Properly dispose of any Waste Materials that may be generated during implementation of this Element of Work; and
- Minimize the disruptions and construction related impacts to local traffic, drainage patterns, roads, utilities, property owners, and communities.

2.2.3 Performance Standards

The performance standards for the Wallace Yard Element of Work represent the prescriptive requirements for this Element of Work and its components. The performance standards are organized by each component of this Element of Work.

2.2.3.1 General Requirements: The following performance standards are applicable to all components of this Element of Work:

2.2.3.1.a Disturbance of existing vegetated areas that are to serve as part of a protective barrier (identified in the RAD Drawings) shall require extension of the placed protective barrier into the area of disturbance as part of the Gravel and Vegetated Barriers Component of Work.

2.2.3.2 Removals and Disposal Component of Work: The performance standards for removals are as follows:

2.2.3.2.a In the Wallace Yard Visitor Center Area – west of road and south of I-90:

2.2.3.2.a.(i) Based on previously obtained sampling results, removal of soils with lead concentrations greater than 700 mg/kg or arsenic concentrations greater than 100 mg/kg to a depth of 1 foot;

2.2.3.2.a.(ii) placement of clean fill to ensure a 12-inch clean barrier in all areas; and

2.2.3.2.a.(iii) placement of a vegetated barrier as specified by the RAD Drawings and RA Work Plan.

2.2.3.2.b In the Wallace Yard Visitor Center Parking Area – east of road and south of I-90, limited removal of soils at the edge of the barrier area to maintain a smooth transition as specified by the RAD Drawings and RA Work Plan.

2.2.3.2.c In Area WY-4 of Wallace Yard, removal and/or capping in the area of sample WY-148 only, as specified by the RAD Drawings and RA Work Plan.

2.2.3.3 Other Removals and Disposal Component of Work: In addition to the removals described above, additional selected removals may be performed in certain localized areas of Wallace Yard:

2.2.3.3.a Previously Unidentified Hazardous Substance Release Areas: If previously unidentified, locations of releases of hazardous substances resulting from prior railroad operations are discovered in Wallace Yard during implementation of the various components of work, and if such previously unidentified locations of releases of hazardous substances present an unacceptable risk to human health and the environment, such releases shall be addressed in accordance with section VII of the Consent Decree. Settling Defendants may propose the following:

2.2.3.3.a.(i) Unless otherwise approved by EPA, the location shall be sampled and the samples analyzed in accordance with a sampling and analysis plan that is subject to the review and approval of EPA.

2.2.3.3.a.(ii) Based on the sampling and analytical results and consultation with EPA, Settling Defendants shall make an evaluation as to whether any follow-up action is required for the area. If the evaluation indicates that additional activities, consistent with the Scope of the Response Action as

defined within Paragraph 15(b) of the CD, are necessary (i.e. removals, placement of protective barriers, etc.) and if the reopener conditions in Paragraph 86 or 87 of the Consent Decree are satisfied, then a plan for implementation of the response activities shall be developed. The evaluation and plan shall consider the type of material found, concentration in the affected area, available site access, and potential impact on the surrounding communities and the environment.

2.2.3.3.a.(iii) The evaluation and proposed plan of action, including all related analytical data results from the sampling shall be provided to EPA no later than sixty (60) calendar days from sample collection. The response action for the area shall be subject to the review and approval of EPA.

2.2.3.3.a.(iv) If the Settling Parties cannot agree upon a response action for addressing such previously unidentified release areas, resolution of the disagreement shall be subject to the dispute resolution provisions of the CD.

2.2.3.4 ~~2.3.3 Performance Standards.~~Gravel and Vegetated Barriers Component of Work: The performance standards for the ~~components of the Flood Damage Repair Element of Work~~gravel and vegetated soil barriers component of work are as follows:

~~2.3.3.1 Embankment repair shall be performed by the placement of clean structural fill that meets the material and placement requirements specified within the PMPS.~~

~~2.3.3.2 Re-vegetation for embankment stabilization shall be performed~~

2.2.3.4.a General Requirements

2.2.3.4.a.(i) Gravel and vegetated barriers shall be placed within Wallace Yard at the locations and in the manner specified ~~within the RA Work Plan.~~

~~2.3.3.3 Riprap armor protection shall be placed at the locations and in the manner specified within the RA Work Plan.~~

~~2.3.3.4 Culverts which contain debris or sediment shall be cleaned to restore free flow. Culverts that are damaged to such an extent that their cross sectional area is reduced by more than 20% shall be replaced with new culverts of equivalent hydraulic capacity.~~

~~2.3.3.5 Replacement of culverts shall be performed at the locations and in the manner specified within the RA Work Plan.~~

~~2.3.3.6 Unless otherwise approved by EPA, the railroad grade in repaired areas shall be restored to an elevation that conforms to the grade of the railroad centerline in the immediately adjacent undamaged areas.~~

~~2.3.3.7 The Settling Parties have made a good faith effort to locate all culverts within the Site. They acknowledge that despite these efforts all culverts may not have been located. If additional culverts are located during performance of the Work, Settling Defendants shall clean out, repair, or replace these culverts as needed using methods specified within the RA Work Plan.~~

~~2.3.3.8 Any accumulation of past flood debris that has accumulated within the bridge support structures shall be removed in accordance with procedures specified within the RA Work Plan.~~

~~2.3.3.9 Visually identifiable accumulations of ore concentrate material that are found during implementation of flood damage repair shall be removed and properly disposed of as specified in Section _____.~~

~~2.4 Removal, Disposal, and Protective Barriers Element of Work~~by the applicable RAD Drawings and the RA Work Plan.

2.2.3.4.a.(ii) The specific choice of gravel or vegetated barrier at a given location shall be as specified by the applicable RAD Drawings.

2.2.3.4.a.(iii) Barriers shall be used at specific road crossings as specified by the RAD Drawings.

2.2.3.4.b Material requirements

2.2.3.4.b.(i) Gravel barriers shall consist of clean gravel material meeting the requirements specified in the PMPS and shall be 12 inches in minimum thickness or as specified by the RAD Drawings.

2.2.3.4.b.(ii) Visual markers shall be installed beneath gravel and vegetated barriers as specified by the RAD Drawings. These markers shall meet the material and installation requirements

specified by the PMPS and applicable RAD Drawings.

2.2.3.4.b.(iii) Vegetated barriers shall consist of clean soil meeting the requirements specified in the PMPS and shall be either 6 inches or 12 inches in minimum thickness or as specified by the RAD Drawings.

2.2.3.4.b.(iv) Vegetated barriers shall be hydro seeded as specified by the PMPS.

2.2.3.4.c Lateral dimensions and thickness requirements for the barriers

2.2.3.4.c.(i) Barriers at road crossings shall be installed as specified by the RAD Drawings.

2.2.3.5 Hydroseed Component of Work. Hydroseeding shall be used to promote vegetative cover for erosion control in Area WY-4 and the unpaved area between access ramps and the main roadway of I-90 as specified by the RAD Drawings and the RA Work Plan.

2.3 Hercules Mill Element of Work

2.3.1 ~~2.4.1~~ General Description

~~The Removal, Disposal and Protective Barriers~~The Hercules Mill Element of Work includes the isolation of Mine Waste from certain potential exposure pathways through removals and disposal as well as the placement of protective barriers. The components of this ~~element~~Element of ~~work~~Work are specified in the Response Action Design Drawings (RAD Drawings) (Attachment ~~D~~C to this SOW). A design narrative and supporting details for the RAD Drawings are provided in the ~~Removals, Disposal, and Protective Barriers~~ Response Action Work Plan (RA Work Plan) (Attachment ~~C~~B to this SOW). This Element of Work includes the following:

- ~~Removal of ballast and other materials from sidings;~~
- ~~Removal of ballast and other materials from other specified areas such as Osburn, Mullan, various loading docks, tie dumps and debris accumulation areas, miscellaneous debris materials and miscellaneous contaminated soil removals;~~

- Removal of contaminated soil from common use areas of the Hercules Mill Site as specified in the RAD Drawings and RA Work Plan;
- Sampling at the Hercules Mill site;
- ~~•~~ Disposal of the removed material either On-~~site~~Site (locations approved by EPA) or Off-~~site;~~Site;
- ~~•~~ Placement of vegetated~~, gravel, and asphalt barriers at specified locations;~~ and gravel barriers at specified locations in common use areas within the Hercules Mill Site;
- ~~•~~ Placement of access controls at specified locations~~;~~ at the Hercules Mill; and
- ~~•~~ Removal and proper disposal of any concentrate accumulations that may be visually ~~or otherwise~~ identified during implementation of this Element of Work~~;~~ ~~and • Characterize and respond to previously unidentified releases of hazardous substances~~.

2.3.2 ~~2.4.2~~ Performance Objectives

The objectives of the ~~Removal, Disposal and Protective Barriers~~Hercules Mill Element of Work and its components are to:

- ~~•~~ Prevent unacceptable human exposure to Mine Waste and material contaminated with Mine Waste as described below in Section 2.3.3;
- ~~•~~ Minimize migration of Mine Waste and material contaminated with Mine Waste on and off of the ~~ROW~~Hercules Mill site;
- ~~•~~ Minimize the damage to non-abandoned structures, amenities, and vegetation;
- ~~•~~ Protect barriers from damage due to unauthorized access;
- ~~•~~ Properly dispose of any Waste Materials that may be generated during implementation of this Element of Work;
- Minimize the disruptions and construction related impacts to local traffic, drainage patterns, roads, utilities, property owners, and communities; and
- Remove and properly dispose of any concentrate accumulations that may be visually identified during implementation of this Element of Work.

2.3.3 Performance Standards

The performance standards for the Hercules Mill Element of Work represent the prescriptive requirements for this Element of Work and its components. The performance standards are organized by each component of this Element of Work.

2.3.3.1 General Requirements: The following performance standards are applicable to all components of this Element of Work:

2.3.3.1.a Disturbance of existing vegetated areas that are to serve as part of a protective barrier (identified in the RAD Drawings) shall require extension of the placed protective barrier into the area of disturbance as part of the Gravel and Vegetated Barriers Component of Work.

2.3.3.2 Removals and Disposal Component of Work: The performance standards for removals are as follows:

2.3.3.2.a Sampling to determine if there are any materials present in concentrations that are equal to or exceed the Principal Threat Materials (PTM) criteria.

2.3.3.2.b Decontaminate foundations.

2.3.3.2.c Obliterate access to foundations.

2.3.3.2.d Remove and dispose of soils as specified by the RAD Drawings and RA Work Plan.

2.3.3.2.e Grade and place 12-inch vegetated or gravel barrier as specified by the RAD Drawings and RA Work Plan

2.3.3.3 Other Removals and Disposal Component of Work: In addition to the removals described above, additional selected removals may be performed in certain localized areas of the Hercules Mill site:

2.3.3.3.a Household Refuse and Construction Debris. Remove and dispose of miscellaneous household refuse and construction debris east of the foundations.

2.3.3.3.b Previously Unidentified Hazardous Substance Release Areas: If previously unidentified, locations of releases of hazardous substances resulting from prior railroad or mill operations are discovered at the Hercules Mill site during the implementation of various components of work, and if such previously unidentified locations of releases of

hazardous substances present an unacceptable risk to human health and the environment, such releases shall be addressed in accordance with section VII of the Consent Decree. Settling Defendants may propose the following:

2.3.3.3.b.(i) Unless otherwise approved by EPA, the location shall be sampled and the samples analyzed in accordance with a sampling and analysis plan that is subject to the review and approval of EPA.

2.3.3.3.b.(ii) Based on the sampling and analytical results and consultation with EPA, Settling Defendants shall make an evaluation as to whether any follow-up action is required for the area. If the evaluation indicates that additional activities, consistent with the Scope of the Response Action as defined within Paragraph 15(b) of the CD, are necessary (i.e. removals, placement of protective barriers, etc.) and if the reopener conditions in Paragraph 86 or 87 of the Consent Decree are satisfied, then a plan for implementation of the response activities shall be developed. The evaluation and plan shall consider the type of material found, concentration in the affected area, available site access, and potential impact on the surrounding communities and the environment.

2.3.3.3.b.(iii) The evaluation and proposed plan of action, including all related analytical data results from the sampling shall be provided to EPA no later than sixty (60) calendar days from sample collection. The response action for the area shall be subject to the review and approval of EPA.

2.3.3.3.b.(iv) If the Settling Parties cannot agree upon a response action for addressing

such previously unidentified release areas, resolution of the disagreement shall be subject to the dispute resolution provisions of the CD.

2.3.3.3.c Previously Unidentified Concentrate Accumulations: Visually identifiable accumulations of ore concentrate material, if any, that are found during implementation of the Hercules Mill Element of Work shall be removed and properly disposed of as specified in Section 2.1.7.17.

2.3.3.4 Gravel and Vegetated Barriers Component of Work: The performance standards for the gravel and vegetated soil barriers component of work are as follows:

2.3.3.4.a General Requirements

2.3.3.4.a.(i) Gravel and vegetated barriers shall be placed within the Hercules Mill site at the locations and in the manner specified by the applicable RAD Drawings and the RA Work Plan.

2.3.3.4.a.(ii) The specific choice of gravel or vegetated barrier at a given location shall be as specified by the applicable RAD Drawings.

2.3.3.4.a.(iii) Barriers shall be used at specific road crossings as specified by the RAD Drawings.

2.3.3.4.b Material requirements

2.3.3.4.b.(i) Gravel barriers shall consist of clean gravel material meeting the requirements specified in the PMPS and shall be 12 inches in minimum thickness or as specified by the RAD Drawings.

2.3.3.4.b.(ii) Visual markers shall be installed beneath gravel and vegetated barriers as specified by the RAD Drawings. These markers shall meet the material and installation requirements

specified by the PMPS and applicable RAD Drawings.

2.3.3.4.b.(iii) Vegetated barriers shall consist of clean soil meeting the requirements specified in the PMPS and shall be either 6 inches or 12 inches in minimum thickness or as specified by the RAD Drawings.

2.3.3.4.b.(iv) Vegetated barriers shall be hydro seeded as specified within the PMPS.

2.3.3.4.c Lateral dimensions and thickness requirements for the barriers

2.3.3.4.c.(i) Barriers at road crossings shall be installed as specified by the RAD Drawings.

2.3.3.5 Hydroseed Component of Work. Mulch shall be added and hydroseeding shall be used to promote vegetative cover for erosion control on the bare hillside above foundations.

2.3.3.6 Access Control Component of Work.

2.3.3.6.a Erect chain link fence as specified by the RAD Drawings and RA Work Plan to control access to the Hercules Mill and to restrict unauthorized access to the Hercules Mill.

2.3.3.6.b Place signage to indicate no trespassing.

2.4 Ninemile Element of Work

2.4.1 General Description

The Ninemile Element of Work includes the isolation of Mine Waste from certain potential exposure pathways through removals and disposal as well as the placement of protective barriers. The components of this Element of Work are specified in the Response Action Design Drawings (RAD Drawings) (Attachment C to this SOW). A design narrative and supporting details for the RAD Drawings are provided in the Response Action Work Plan (RA Work Plan) (Attachment B to this SOW). This Element of Work includes the following:

- Remediation of road shoulders that are within the FROWW and within 1000 feet of residences, as measured along the length of the road;

- Disposal of the removed material either On-Site (locations approved by EPA) or Off-Site;
- Placement of vegetated, gravel, and asphalt barriers at specified locations as shown on the RAD Drawings and RA Work Plan; and
- Coordination with the State RUA Program which will conduct remediation of residential use areas within the former railroad right-of-way.

2.4.2 **Performance Objectives**

The objectives of the Ninemile Element of Work and its components are to:

- Prevent unacceptable human exposure to Mine Waste and material contaminated with Mine Waste as described below in Section 2.4.3;
- Minimize migration of Mine Waste and material contaminated with Mine Waste on and off of the former railroad right-of-way;
- Minimize the damage to non-abandoned structures, amenities, and vegetation;
- Properly dispose of any Waste Materials that may be generated during implementation of this Element of Work;
- ~~•~~ Minimize the dispersal of contamination to those portions of the ~~ROW~~former railroad right-of-way that are not projected to receive response actions; and
- ~~•~~ Minimize the disruptions and construction related impacts to local traffic, drainage patterns, roads, utilities, property owners, and communities~~;~~.

~~• Remove and properly dispose of any concentrate accumulations that may be visually identified during implementation of this Element of Work; and~~

~~• Characterize and respond to previously unidentified releases of hazardous substances.~~

2.4.3 ~~2.4.3~~ **Performance Standards**

~~The performance standards for the Removal, Disposal and Protective Barriers~~The performance standards for the Ninemile Element of Work represent the prescriptive requirements for this ~~element of work~~Element of Work and its components. The performance standards are organized by each component of this Element of Work.

2.4.3.1 ~~2.4.3.1~~ General Requirements: The following performance standards are applicable to all components of this ~~element of work:~~Element of Work:

2.4.3.1.a ~~2.4.3.1.a.~~ Disturbance of existing vegetated areas that are to serve as part of a protective barrier (identified in the RAD Drawings) shall require extension of the placed protective barrier into the area of disturbance as part of the Gravel and Vegetated Barriers Component of Work.

2.4.3.1.b ~~2.4.3.1.b.~~ All removals along that portion of the ~~rail bed~~FROWW that ~~will serve~~serves as a ~~road surface or~~ road shoulder shall be performed in a manner that allows for a smooth transition in any required grade changes. Any such transitions shall not exceed a grade of five per cent (5 feet vertical per 100 feet horizontal).

2.4.3.2 ~~2.4.3.2 Siding~~ Removals and Disposal Component of Work: The performance standards for ~~siding~~ removals are as follows:

~~2.4.3.2.a. Removals of ballast from sidings within the ROW shall be performed in accordance with the applicable RAD Drawings and the RA Work Plan.~~

~~2.4.3.2.b. All siding removals shall occur for the full length of the siding and the full width of visually identifiable ballast.~~

~~2.4.3.2.c. Siding ballast excavations shall be regraded and/or backfilled as specified within the RAD Drawings and RA Work Plan to provide for adequate drainage.~~

2.4.3.2.a For road shoulders that are within the FROWW and within 1000 feet of residences, as measured along the length of the road, based on sampling, removal of soils with lead concentrations greater than 700 mg/kg or arsenic concentrations greater than 100 mg/kg to a depth of 1 foot. The 1000 feet shall be measured from a line that extends perpendicular from the centerline of the former railroad right-of-way to the outermost point of the outermost residential structure.

2.4.3.2.b Removal of tailings bank between mile marker 1.25 and mile marker 2.25.

2.4.3.3 ~~2.4.3.3~~ Other Removals and Disposal Component of Work: In addition to the removals described above, additional selected removals ~~shall~~may be performed in certain localized areas of the ~~ROW (primarily residential areas):2.4.3.3.a Tie Dumps and Debris Accumulations: Locations within the Site may contain railroad ties and other debris~~

~~accumulations that were removed from the mainline, spurlines, or sidings at some time in the past. The performance standards for removal of these areas are as follows:~~former Ninemile Spur Line railroad right-of-way:

~~2.4.3.3.a.(i) The accumulations of ties and other debris accumulation that are shown on the applicable RAD Drawings shall be excavated and disposed of in accordance with the disposal requirements specified in Section 2.1.7.~~

~~2.4.3.3.a.(ii) Excavation of these areas shall be to a depth of 18 inches below the bottom of the lowest encountered tie or debris as shown on the applicable RAD Drawings.~~

~~2.4.3.3.a.(iii) Removals of tie dumps and debris accumulations within wetlands and surface water bodies shall be performed in accordance with the controls specified in the Wetlands Plan.~~

2.4.3.3.a ~~2.4.3.3.b.~~ Miscellaneous Debris Removals: ~~In addition to tie dumps and debris accumulations~~If necessary to allow implementation of other components of this Element of Work, Settling Defendants shall ~~also~~ remove individual pieces of ties that exceed a nominal 9 inches measured in any dimension and other debris that exceeds a nominal ~~six~~6 inches measured in any dimension. This removed material shall be disposed of in accordance with the disposal requirements specified in Section 2.1.7. Excavation below these individual pieces of ties or debris ~~(as opposed to the tie and debris accumulations specified in Section 2.4.3.3.a)~~ is not required unless there is visual or other evidence of suspected contamination associated with the individual pieces of ties or debris.

2.4.3.3.b ~~2.4.3.3.c.~~ Previously Unidentified Hazardous Substance Release Areas: If ~~other~~ previously unidentified, locations of releases of hazardous substances resulting from prior ~~rail road~~railroad operations are discovered within the former Ninemile Spur Line railroad right-of-way during implementation of the various ~~elements of work such areas shall be addressed as follows~~components of work, and if such previously unidentified locations of releases of hazardous substances present an unacceptable risk to human health and the environment, such releases shall be addressed in accordance with section VII of the Consent Decree. Settling Defendants may propose the following:

2.4.3.3.b.(i)	~~2.4.3.3.c.(i)~~ Unless otherwise approved by EPA, the location shall be sampled and the samples analyzed in accordance with a sampling and analysis plan that is subject to the review and approval of EPA.
2.4.3.3.b.(ii)	~~2.4.3.3.c.(ii)~~ Based on the sampling and analytical results and consultation with EPA, Settling Defendants shall make an evaluation as to whether any follow-up action is required for the area. If the evaluation indicates that additional activities, consistent with the Scope of the Response Action as defined within Paragraph ~~14~~15(b) of the CD, ~~is~~are necessary (i.e. removals, placement of protective barriers, etc.)~~,~~ and if the reopener conditions in Paragraph 86 or 87 of the Consent Decree are satisfied, then a plan for implementation of the response activities shall be developed. The evaluation and plan shall consider the type of material found, concentration in the affected area, available site access, and potential impact on the surrounding communities and the environment.
2.4.3.3.b.(iii)	~~2.4.3.3.c.(iii)~~ The evaluation and proposed plan of action, including all related analytical data results from the sampling shall be provided to EPA no later than sixty (60) calendar days from sample collection. The response action for the area shall be subject to the review and approval of EPA.
2.4.3.3.b.(iv)	~~2.4.3.3.c.(iv)~~ If the Settling Parties cannot agree upon a response action for addressing such previously unidentified release areas, resolution of the disagreement shall be subject to

the dispute resolution provisions of the CD.

~~2.4.3.3.d Previously Unidentified Concentrate Accumulations: Visually identifiable accumulations of ore concentrate material that are found during implementation of the Removal, Disposal, and Protective Barriers Element of Work shall be removed and properly disposed of as specified in Section 2.2.3.9.~~

2.4.3.4 ~~2.4.3.5~~ Gravel and Vegetated Barriers Component of Work: The performance standards for the gravel and vegetated soil ~~barrier~~barriers component of work are as follows:

2.4.3.4.a ~~2.4.3.5.(a)~~ General Requirements

2.4.3.4.a.(i) ~~2.4.3.5.a.(i)~~ Gravel and vegetated barriers shall be placed within the ~~Site~~former Ninemile Spur Line railroad right-of-way at the locations and in the manner specified ~~within~~by the applicable RAD Drawings and the RA Work Plan.

~~2.4.3.5.a.(ii) The gravel or vegetated barriers shall be used at all siding locations as shown on the applicable RAD Drawings.~~

2.4.3.4.a.(ii) ~~2.4.3.5.a.(iii)~~ The specific choice of gravel or vegetated barrier at a given location shall be as specified ~~on~~by the applicable RAD Drawings.

2.4.3.4.a.(iii) ~~2.4.3.5.a.(iv)~~ Barriers shall be used at specific road crossings as specified ~~in~~by the RAD Drawings.

2.4.3.4.b ~~2.4.3.5.b.~~ Material requirements

2.4.3.4.b.(i) ~~2.4.3.5.b.(i)~~ Gravel ~~barrier~~barriers shall consist of clean gravel material meeting the requirements specified in the PMPS and shall be ~~either six inches or~~ 12 inches in minimum thickness ~~depending upon use considerations in the area of the gravel barrier placement~~or as

specified ~~below and in~~by the RAD Drawings.

2.4.3.4.b.(ii) ~~2.4.3.5.b.(ii)~~ Visual markers shall be installed beneath ~~all gravel and vegetated barriers, except~~gravel and vegetated barriers as specified by the RAD Drawings. Visual markers are not required where the gravel barrier underlies an asphalt barrier or shoulder gravel that has been installed as part of the Work. These markers shall meet the material and installation requirements specified ~~in~~by the PMPS and applicable RAD Drawings.

2.4.3.4.b.(iii) ~~2.4.3.5.c.(iii) The vegetated barrier~~Vegetated barriers shall consist of clean soil meeting the requirements specified in the PMPS and shall be ~~either six~~12 inches ~~or 12 inches~~ in minimum thickness ~~depending upon use considerations in the area of the vegetated barrier placement as specified in the RAD Drawings.~~or as specified by the RAD Drawings.

~~2.4.3.5.c.(iv) The vegetated barrier shall be hydro seeded as specified within the PMPS.~~

2.4.3.4.b.(iv) Vegetated barriers shall be hydroseeded as specified by the PMPS.

2.4.3.4.c ~~2.4.3.5.d~~ Lateral dimensions and thickness requirements for the barriers

2.4.3.4.c.(i) ~~2.4.3.5.d.(i)~~ The width of barriers ~~in siding areas~~ shall extend laterally over the FROWW or as specified ~~within~~by the RAD Drawings.

~~2.4.3.5.d.(ii) Siding area barriers in remote areas shall extend a length of 1,000 feet or the length of the siding, whichever is~~

~~shorter, as shown on the applicable RAD Drawings. Remote area siding barriers shall be a minimum of 12 inches in thickness.~~

2.4.3.4.c.(ii) ~~2.4.3.5.d.(iii)~~ Barriers at road crossings shall be installed as specified ~~in~~by the RAD Drawings.

2.4.3.5 ~~2.4.3.6 Access Control~~Asphalt Barriers Component of Work: The performance standards for the ~~fencing and~~asphalt barriers component of work are as follows:

2.4.3.5.a ~~2.4.3.6.a Fencing, bollards, barricades, gates and/or hostile vegetation~~Asphalt barriers shall be ~~installed at~~placed at the locations ~~within the ROW~~ and in the manner specified ~~on the RAD Drawings to control access to contaminated areas within and off of the Site and to restrict unauthorized access onto the Site~~by the applicable RAD Drawings and the RA Work Plan.

~~**2.5 Residential Use Areas Element of Work**~~

2.4.3.5.b Asphalt barriers shall meet the specifications included in the PMPS and consist of a minimum ___-inch thick hot mix asphaltic concrete pavement (ACP) underlain by a minimum ___-inch thick compacted road base aggregate.

2.4.3.5.c Asphalt barriers shall extend laterally over the FROWW unless otherwise specified by the RAD Drawings.

2.5 Canyon Creek Element of Work

2.5.1 ~~2.5.1~~ General Description

~~The Residential Use Areas Element of Work will address contamination that may exist within areas of residential use that are occurring within the Site. This element of work shall include verification sampling for existing contamination, removals of contaminated soils, and replacement of these soils with clean soil as appropriate. This Element of Work will be performed in accordance with a Residential Use Areas Work Plan that will be submitted as a deliverable in accordance with the schedule specified in Section 5 and is subject to the review and approval of EPA.~~

~~**2.5.2 Performance Objectives**~~

~~The performance objectives of the Residential Area Element of Work are as follows:~~

- Identify areas of contamination within on-Site areas that currently have a residential type use;
- Coordinate with the landowner and Governments on sampling and required actions;
- Remove identified areas of contamination;
- Maintain and preserve existing drainage features
- Restore the grade of removal areas by the placement of clean soil; and
- Restore vegetation.

2.5.3 Performance Standards

Performance standards for the Residential Use Areas Element of Work are as follows:

2.5.3.1 A Residential Use Areas Work Plan shall be submitted in accordance with the requirements of Section 5.

2.5.3.2 Except as noted in Section 2.5.3.3, all work conducted under this Element of Work shall be coordinated with the affected party.

2.5.3.3 Settling Defendants shall not be obligated to provide for replacement of top soil, vegetation, or other aspects of a residential use area if the use is not in effect at the time of lodging of the CD; however, any such areas shall be addressed as specified within the requirements for the Gravel and Vegetated Barriers Component of Work specified in Section 2.4.3.5.

2.5.3.4 Each discrete residential use area, excluding the area covered by structures, shall be sampled at a frequency of one sample location per 500 square feet of area. Individual samples shall be taken at each sample location at intervals of 0 to 1, 1 to 6, 6 to 12, and 12 to 18 inches. Additional samples within Garden areas shall also be taken from 18 to 24 inches. All samples from a given depth interval for the discreet residential use area shall be composited and analyzed for determination of the 1,000 mg/kg lead threshold concentration. Sampling and analysis shall be conducted according to procedures specified within the Residential Use Areas Work Plan.

2.5.3.5 Based on the results of the use area soil sampling, for those residential use areas that exceed the 1,000 mg/kg lead action level, the extent of remediation will be determined as specified in Table 2.5.3-1.

2.5.3.6 All existing produce garden areas in remediated residential use areas will receive 24 inches of clean soil meeting the specifications for growth media specified for vegetative barriers within the PMPS.

2.5.3.7 The exact nature of each yard remediation shall be determined on a case-by-case basis through the process outlined in the Residential Use Areas Work Plan.

2.5.3.8 In all 12-inch removals, if the 12- to 18-inch sample exceeds 1,000 mg/kg lead, a visible marker meeting the specifications for visual marker within the PMPS shall be placed prior to backfilling with clean soil.

2.5.3.9 After replacement with clean fill, existing vegetated use areas shall be revegetated with sod. Improved contiguous use areas not currently serving as lawns shall be revegetated with native grasses.

2.5.3.10 Removed contaminated soils shall be disposed of in accordance with the disposal requirements specified in Section 2.1.7.

2.5.3.11 Remediated areas where EPA determines that revegetation is not necessary may receive clean gravel instead of soil.

2.6 Bridge Element of Work: The performance standard for this element of work is as follows:

2.6.1 Settling Defendants shall repair and modify all bridges within the Site such that they are in good operating condition for use as part of the current use. The repair and modifications for all bridges shall be performed in accordance with a Bridge Repair and Modification Work Plan that is subject to the review and approval of EPA.

2.6.2 An inspection of the bridges approach structures shall be performed by Settling Defendants in accordance with procedures that are specified within a Bridge Inspection Work Plan that is subject to the review and approval of EPA. Settling Defendants may eliminate inspections of those bridges and the approach structures that were previously inspected by the Coeur d'Alene Tribe in 1999. The elements of the inspection procedures shall be as follows:

- The inspection program shall be performed under the supervision of a registered professional engineer in the State of Idaho.
- The inspections shall be performed by qualified inspectors in accordance with the National Bridge Inspection Standards.
- An inspection report for each bridge and the Chatcolet timber approach structures shall be prepared in a standard format that is generally consistent with the Federal Highway Administration or U.S. Forest Service standard procedures for bridge inspections.

- ~~The inspection shall address the condition of the bridge or timber approach structure, sub-structure, abutments, erosion conditions, and foundation.~~

- ~~Each field report shall be evaluated by the supervising professional engineer. The evaluation will define any maintenance or repairs required to enable the bridge to carry the design load specified in Section 2.6.3.3.c. The final evaluation shall be certified and sealed by the supervising professional engineer.~~

~~2.6.3 In addition to any other repairs that may be identified in accordance with Section 2.6.3, the paint on steel bridges shall be repaired as follows:~~

- ~~Paint that is chipped, flaking, or otherwise deteriorated over a contiguous area of 250 square inches shall be replaced.~~

- ~~Replacement of paint shall occur in accordance with good engineering practice and standards that will be specified in the above Bridge Repair Work Plan which is subject to the review and approval of EPA.~~

~~2.6.4 Any repairs that are identified as being required by: (1) the Bridge Inspection Report specified in Section 2.6.2. and (2) any paint repairs as specified in Section 2.6.3 shall be performed by Settling Defendants in accordance with a Bridge Repair and Modification Work Plan that is subject to the review and approval of EPA.~~

~~2.6.6. Any past flood debris that has accumulated within the bridge support structure has been removed in accordance with procedures specified within the Bridge Repair Work Plan.~~

~~2.6.6.1. The design load for the bridges shall be an AASHTO standard loading classification H20.~~

~~2.6.6.2 The bridges within the ROW Modifications shall meet the design criteria specified in the following:~~

~~2.6.6.3 Settling Defendants shall use either pre-cast concrete, treated wood, or other material approved by EPA for the bridge decking.~~

~~2.6.6.3.a The bridges shall be designed to allow for the following clearance between the safety rails:~~

The Canyon Creek Element of Work includes the isolation of Mine Waste from certain potential exposure pathways through removals and disposal as well as the placement of protective barriers. The components of this Element of Work are specified in the Response Action Design Drawings (RAD Drawings) (Attachment C to this SOW). A design narrative and supporting details for the RAD Drawings are provided in the

Response Action Work Plan (RA Work Plan) (Attachment B to this SOW). This Element of Work includes the following:

- ~~Minimum twelve foot clearance between the safety rails.~~Remediation of road shoulders that are within the FROWW and within 1000 feet of residences, as measured along the length of the road;

- ~~The above specified clearance shall only apply to the distance between the safety rails. The bridge decking design may be based on the assumption that the non-pedestrian loading of the bridge will occur within the central eight foot portion of the bridge width.~~Disposal of the removed material either On-Site (locations approved by EPA) or Off-Site;

~~2.6.6.3.b The bridge safety rails shall be designed to meet the following design criteria:~~

- ~~The safety railing height shall be a minimum of 54 inches above the trail surface.~~Placement of vegetated, gravel, and asphalt barriers at specified locations as shown on the RAD Drawings and RA Work Plan; and

- ~~The maximum clear vertical opening between horizontal rail elements shall be as follows:~~Coordination with the State RUA Program which will conduct remediation of residential use areas within the former railroad rights-of-way.

2.5.2 Performance Objectives

The objectives of the Canyon Creek Element of Work and its components are to:

- ~~Within a band bordered by the trail surface and a line 27 inches above the trail surface the vertical opening shall be a maximum of 6 inches.~~Prevent unacceptable human exposure to Mine Waste and material contaminated with Mine Waste as described in Section 2.5.3 below;

- ~~Within a band that is bordered by lines that are 27 and 54 inches above the trail surface the vertical opening shall be a maximum of 8 inches.~~Minimize migration of Mine Waste and material contaminated with Mine Waste on and off of the former railroad rights-of-way;

- ~~The sizing of the rail components and spacing of the risers shall be selected to support a design loading of 50 pounds per linear foot, transversely and vertically, acting simultaneously on each longitudinal member.~~Minimize the damage to non-abandoned structures, amenities, and vegetation;

- ~~Provided that they meet the design requirements specified within this section, Settling Defendants shall be allowed to use either steel or wood vertical risers with cable horizontal members or other materials approved by EPA for the bridge railings.~~Properly dispose of any Waste Materials that may be generated during implementation of this Element of Work;

~~2.6.6.3.c The final design of the approaches to the bridges shall address potential safety issues by either extending and flaring the hand rails or providing some other measure to safely direct trail users onto the bridge.~~

~~2.6.6.3.c.(i) All bridge modifications for use as part of the response action shall:~~

- ~~Be consistent with the existing bridge architecture.~~Minimize the dispersal of contamination to those portions of the former railroad rights-of-way that are not projected to receive response actions; and

- ~~Carry the design load specified in Section 2.6.3.3.c and any additional loading (static and dynamic) that may be imposed on the structure as a result of modifications of the drive structure.~~Minimize the disruptions and construction related impacts to local traffic, drainage patterns, roads, utilities, property owners, and communities.

~~2.6.6.3.c.(ii) All structural work shall meet the applicable National Building Code requirements.~~

~~2.7 Maintenance and Repair Element of Work~~

~~2.7.1 General Description~~

~~The Maintenance and Repair (M&R) Element of Work represents the long-term maintenance of the protective barriers, rail bed embankments that provide a foundation for the trail portion of the ROW, and future placement of access controls that may become necessary to restrict access onto and off of the ROW and for purposes of managing exposure and protection of barriers. The implementation of maintenance and repair activities will be performed in accordance with the procedures specified in the M&R Plan, Attachment E to this SOW.~~

~~2.7.2~~ 2.5.3 Performance ~~Objectives~~

~~The performance objectives of the M&R Element of Work are to:~~

- ~~Preserve the integrity of the protective barriers that will be installed as part of the response action through maintenance and repair;~~
- ~~Maintain and repair the rail bed embankments and the Wallace Yard;~~
- ~~Provide for future access controls that may be necessary to restrict access onto and off of the ROW for purposes of managing exposure and protection of barriers; and~~
- ~~Provide for a record of maintenance and repair activities performed and the cost of those activities.~~

~~2.7.3 Performance Standards~~

Standards

The performance standards for the ~~M&R Element of Work are as follows:~~

~~2.7.3.1 M&R activities shall be performed in accordance with the requirements specified within the M&R Plan and this Section 2.7.~~

~~2.7.3.2 Unless otherwise approved by EPA, Settling Defendants shall conduct monthly, semi-annual, and storm event driven inspections of the ROW features as specified in M&R Work Plan. EPA shall be notified at least 7 calendar days before the commencement of monthly and semi-annual inspections. EPA shall also be notified before the commencement of storm event inspections~~

~~2.7.3.3 Settling Defendants shall perform routine maintenance activities as follows:~~

~~2.7.3.3.a Semi-annual maintenance and repair that is determined, in accordance with the M&R Plan, to be necessary as a result of the semi-annual inspections shall be performed as specified in the M&R Plan.~~

~~2.7.3.3.b If the monthly or storm event inspections specified in the M&R Plan find or if EPA notifies Settling Defendants of conditions defined in the M&R Plan that represent indications of actual or imminent barrier failure that requires a response before the next scheduled semi-annual scheduled maintenance and repair activities, then such repair shall be performed in accordance with the M&R Plan.~~

~~2.7.3.4 Settling Defendants shall repair non-routine damage of embankments or protective barriers in accordance with a work plan that is subject to the review and approval of EPA. For purposes of this SOW, non-routine damage shall be damage to protective barriers or embankments within the trail corridor for which there is not a prescribed repair specified within the M&R Plan. Any such non-routine damage repair shall restore the damaged protective barriers and~~

~~embankments to a condition that is consistent with the RA Work Plan and the FDR Work Plan.~~

~~2.7.3.5 Settling Defendants shall repair flood damage to bridge structures. Such repairs shall be performed as specified in the M&R Plan. As part of the obligation for such flood damage repair, Settling Defendants shall inspect the bridge structures as specified in the M&R Plan for accumulations of flood debris. If flood debris accumulates within the bridge structures in the sole opinion of Settling Defendants, the accumulations could result in flood damage (as defined within this Section 2.7.3.5) to the bridge structures during subsequent flood events, the debris shall be removed and properly disposed of.~~

~~2.7.3.6 Settling Defendants shall either repair or replace access controls that are damaged such that their intended function is impaired. Settling Defendants shall install any additional access controls that are determined to be necessary by the annual review described in Section 2.7.3.?~~

~~2.7.3.7 Settling Defendants shall prepare and submit an Annual Maintenance and Repair Summary report of M&R activities to EPA each year in accordance with the schedule specified in Section 5.9. Such reports shall provide the following information for each reporting period:~~

~~2.7.3.7.a. Records of the monthly, semi-annual, and storm event inspections that were conducted during the reporting year.~~

~~2.7.3.7.b. A summary description of the maintenance and repair activities performed during the reporting year. The summary description shall also include a summary of the cost of the maintenance and repair. The cost shall be itemized by labor, equipment, and materials for each type or category of repair (i.e. embankment erosion).~~

~~2.7.3.7.c Identification of areas that have required repeated repairs of the same type.~~

~~2.7.3.7.d A summary description of the maintenance and repairs performed during the year.~~

~~2.7.3.7.e Repair records included in the annual summary reports shall contain quantitative information including mile markers for the repair locations, nature of the repair, unit cost of materials, and duration of repair activity at each location.~~

~~2.7.3.7.f An evaluation of where access controls may be needed to restrict access to contaminated areas at which a response action has not been~~

~~implemented or to limit access onto the ROW for purposes of maintaining the integrity of the protective barriers.~~

~~2.7.3.7.g An evaluation of the effect of any general loss in barrier thickness on the performance of the barrier in protecting human health.~~Canyon Creek Element of Work represent the prescriptive requirements for this Element of Work and its components. The performance standards are organized by each component of this Element of Work.

2.5.3.1 General Requirements: The following performance standards are applicable to all components of this Element of Work:

2.5.3.1.a Disturbance of existing vegetated areas that are to serve as part of a protective barrier (identified in the RAD Drawings) shall require extension of the placed protective barrier into the area of disturbance as part of the Gravel and Vegetated Barriers Component of Work.

2.5.3.1.b All removals along that portion of the FROWW that serves as a road shoulder shall be performed in a manner that allows for a smooth transition in any required grade changes. Any such transitions shall not exceed a grade of five per cent (5 feet vertical per 100 feet horizontal).

2.5.3.2 Removals and Disposal Component of Work: The performance standards for removals are as follows:

2.5.3.2.a For road shoulders that are within the FROWW and within 1000 feet of residences, as measured along the length of the road, based on sampling, removal of soils with lead concentrations greater than 700 mg/kg or arsenic concentrations greater than 100 mg/kg to a depth of 1 foot. The 1000 feet shall be measured from a line that extends perpendicular from the centerline of the former railroad right-of-way to the outermost point of the outermost residential structure.

2.5.3.3 Other Removals and Disposal Component of Work: In addition to the removals described above, additional selected removals may be performed in certain localized areas of the former Canyon Creek Spur Line railroad rights-of-way:

2.5.3.3.a Previously Unidentified Hazardous Substance Release Areas: If previously unidentified, locations of releases of hazardous substances resulting from prior railroad operations are discovered within the former Canyon Creek Spur Line railroad rights-of-way during the

implementation of various components of work, and if such previously unidentified locations of releases of hazardous substances present an unacceptable risk to human health and the environment, such releases shall be addressed in accordance with section VII of the Consent Decree. Settling Defendants may propose the following:

2.5.3.3.a.(i) Unless otherwise approved by EPA, the location shall be sampled and the samples analyzed in accordance with a sampling and analysis plan that is subject to the review and approval of EPA.

2.5.3.3.a.(ii) Based on the sampling and analytical results and consultation with EPA, Settling Defendants shall make an evaluation as to whether any follow-up action is required for the area. If the evaluation indicates that additional activities, consistent with the Scope of the Response Action as defined within Paragraph 15(b) of the CD, are necessary (i.e. removals, placement of protective barriers, etc.) and if the reopener conditions in Paragraph 86 or 87 of the Consent Decree are satisfied, then a plan for implementation of the response activities shall be developed. The evaluation and plan shall consider the type of material found, concentration in the affected area, available site access, and potential impact on the surrounding communities and the environment.

2.5.3.3.a.(iii) The evaluation and proposed plan of action, including all related analytical data results from the sampling shall be provided to EPA no later than sixty (60) calendar days from sample collection. The response action for the area shall be subject to the review and approval of EPA.

2.5.3.3.a.(iv) If the Settling Parties cannot agree upon a response action for addressing such previously unidentified release areas, resolution of the disagreement shall be subject to the dispute resolution provisions of the CD.

2.5.3.4 Gravel and Vegetated Barriers Component of Work: The performance standards for the gravel and vegetated soil barriers component of work are as follows:

2.5.3.4.a General Requirements

2.5.3.4.a.(i) Gravel and vegetated barriers shall be placed within the former Canyon Creek Spur Line railroad rights-of-way at the locations and in the manner specified by the applicable RAD Drawings and the RA Work Plan.

2.5.3.4.a.(ii) The specific choice of gravel or vegetated barrier at a given location shall be as specified by the applicable RAD Drawings.

2.5.3.4.a.(iii) Barriers shall be used at specific road crossings as specified by the RAD Drawings.

2.5.3.4.b Material requirements

2.5.3.4.b.(i) Gravel barriers shall consist of clean gravel material meeting the requirements specified in the PMPS and shall be 12 inches in minimum thickness or as specified by the RAD Drawings.

2.5.3.4.b.(ii) Visual markers shall be installed beneath gravel and vegetated barriers as specified by the RAD Drawings. Visual markers are not required where the gravel barrier underlies an asphalt barrier or shoulder gravel that has been installed as part of the Work.

These markers shall meet the material and installation requirements specified by the PMPS and applicable RAD Drawings.

2.5.3.4.b.(iii) Vegetated barriers shall consist of clean soil meeting the requirements specified in the PMPS and shall be 12 inches in minimum thickness or as specified by the RAD Drawings.

2.5.3.4.b.(iv) Vegetated barriers shall be hydroseeded as specified by the PMPS.

2.5.3.4.c Lateral dimensions and thickness requirements for the barriers

2.5.3.4.c.(i) The width of barriers shall extend laterally over the FROWW or as specified by the RAD Drawings.

2.5.3.4.c.(ii) Barriers at road crossings shall be installed as specified by the RAD Drawings.

2.5.3.5 Asphalt Barriers Component of Work: The performance standards for the asphalt barriers component of work are as follows:

2.5.3.5.a Asphalt barriers shall be placed at the locations and in the manner specified by the applicable RAD Drawings and the RA Work Plan.

2.5.3.5.b Asphalt barriers shall meet the specifications included in the PMPS and consist of a minimum ___ inch thick hot mix asphaltic concrete pavement (ACP) underlain by a minimum ___ inch thick compacted road base aggregate.

2.5.3.5.c Asphalt barriers shall extend laterally over the FROWW unless otherwise specified by the RAD Drawings.

2.6 Five-Year Review

2.6.1 ~~2.7.3.8~~ Settling Defendants shall review the effectiveness of the response ~~action~~actions as specified in Section VII of the CD no less often than every five (5) years after the certification of the Completion of Obligation reports for Elements of

Work ~~except the Maintenance and Repair~~. The review will follow the applicable guidance for performing five -year reviews specified in OSWER Directives 9355.7-03A, 9355.7-02A, 9355-02, 9355.7-02FS1, and 9355.7-03B-P. The five -year review shall make a risk-based assessment of the performance of the response ~~action~~actions relative to the protection of human health and the environment. Any further response actions that may be identified as a result of the five-year review shall be in accordance with Section VII of the CD.

~~2.7.3.9 Settling Defendants shall commence the start of the Maintenance and Repair Element of Work for all portions of the Wallace Yard and Spur Lines under Section 2.7.3.13, as specified in Section 5 when Settling Defendants receive EPA's approval of the Completion of Work Reports for all Elements of Work except Maintenance and Repair.~~

~~2.7.3.10 Notwithstanding any other requirements of this Section 2.7.3 Settling Defendants shall not be obligated to perform any repair of any damage that is caused solely by the actions of EPA or its representatives or agents. In addition, Settling Defendants shall not have any responsibility for repairs that arise from any future response action or restoration activities not conducted by Settling Defendants within or adjacent to the ROW. Settling Defendants shall have the burden of proving that any such damages were caused solely by actions of EPA or its representatives or agents.~~

3.0 ~~3.0~~ DESCRIPTION OF PLANS AND REPORTS

This Section sets forth a description of the types of information that should be included in the plans and reports listed below. It is intended to provide a framework for developing such plans and reports. The descriptions provided in this Section should not be construed as a prescriptive limitation or requirement on the content. EPA may require other information in its review of the deliverables and other documents prepared by Settling Defendants under this SOW. Unless otherwise specified, the description is not meant to distinguish between draft and final versions of the documents.

3.1 ~~3.2~~ Work Plans

The Work Plans that are to be submitted as deliverables under this SOW represent the overall plan to implement, control, and guide the tasks and activities of the respective Components and Elements of Work addressed by these plans. These Work Plans should include the following information:

- General introduction including:
  - A description of the work location.
  - General site setting, including topography, drainage, hydrogeology, and geology.

- Background including overview of the history of the rail line contamination, construction and operation as it relates to the development of the response actions covered by the Work Plan.
- Purpose and scope of that portion of the Work being addressed by the Work Plan.
- Performance Objectives and Standards applicable to that portion of the Work being addressed by the Work Plan.
- To the extent applicable, the method of demonstrating compliance with the ~~performance standards~~Performance Standards.

- Overall technical approach, objective, schedule, and process for undertaking, monitoring, and completing the Components and Elements of Work.
- Specific BMP requirements for any construction activities to minimize migration of contaminants during construction.
- Spill prevention and control procedures as applicable.
- Sampling and analysis plan as applicable.
- Summary description of the deliverables, ~~milestones~~milestone events, and reporting requirements, and cross-references to other documents, as appropriate.
- Site map and other relevant figures, tables, and graphs as applicable.
- Appropriate references to Health and Safety Requirements as applicable.

3.2 ~~3.3~~ Technical Memorandum

In accordance with Section 1.4.5, a Technical Memorandum ("TM") is the mechanism for requesting modifications to: final plans, designs, reports, and schedules developed under this SOW; to the Work being performed under this SOW; or for waivers ~~to~~of ARARS. A TM should include the following information:

- General description of and purpose for the modification.
- Drawings as applicable.
- Justification, including any calculations, for the modification or waiver request.

- Tasks and activities to be performed to implement the modification, including any actions associated with related subsidiary documents, milestone events, tasks, or activities affected by the modification.

- Effect that the modification may have on schedules, future milestones, deliverables and other documents, tasks, activities, or other Work performed under this SOW.

- Recommendations.

- Analyses, data, and other information used to support the modification or waiver request and any proposed recommendations.

3.3 ~~3.4~~ Initiation of Operation Report

The Initiation of Operation Report serves as Settling Defendants' notification of and documentation supporting the commencement of a particular Element of Work, as applicable, under Section 5. The Report should include all relevant analyses, data, and other information used to support Settling Defendants' contention that the particular Element of Work has begun at the time specified by Settling Defendants.

3.4 ~~3.5~~ Completion of Obligation of an Element of Work Report

The Completion of Obligation Report shall be submitted in accordance with the schedule specified in Section 5. The content of the report shall comply with the requirements specified in Section ~~1.4.17~~1.4.16 of this SOW and Section XIV of the CD. This Report should include the following information:

- Overall description of the Report, including purpose and a general description of the portion of the Work covered by the Report and the associated Element of Work. The general description shall include a description of the Work that was undertaken, objectives, period of operation, and Performance Standards.

- Findings and results of the pre-certification inspection, including documentation supporting the conclusion that the Performance Standards, as specified within this SOW, have been attained.

- Certification of construction completion (if applicable) including:

  - A completed punch list from the inspection of the completed construction;

  - A certification (as applicable) by a registered Professional Engineer that construction activities have been completed according to the final design.

- A Construction As-Built Report (if applicable) that includes the following information:
  - As-built drawings and specifications, signed and stamped by a registered Professional Engineer.
  - QA/QC records (as applicable).
  - Summary of any modifications.
- Cross-references to relevant or specific information contained in other documents, as appropriate.
- A statement, in the form specified by Section XIV of the CD, by a registered professional engineer (if applicable) and/or Settling Defendants' Project Coordinator that the portion of the Work has been completed in full satisfaction of the requirements of the CD.

3.5 ~~3.6~~ Completion of the Work Report

~~This report shall be submitted~~If individual Completion of Obligation Reports for all four Elements of Work were not submitted and approved by EPA, then after all ~~phases~~Elements of the Work have been fully performed, as set forth in Paragraph ~~52,~~53, Section XIV of the CD, a Completion of Work Report shall be submitted. The Report shall include the certification statements required by Section XIV of the CD.

3.6 ~~3.7~~ Monthly Progress Reports

The Monthly Progress Reports shall be a consolidated status report on ~~all~~the progress of implementing all Elements of Work. The Reports shall include the following basic information as applicable.

- Introduction, including the purpose and general description of the Work currently being conducted during the month covered by the report.
- Activities/tasks undertaken during the reporting period, and expected to be undertaken during the next reporting period.
- Deliverables and milestones completed during the reporting period, and expected to be completed during the next reporting period.
- Identification of issues and actions that have been or are being taken to resolve the issues.
- Status of the overall Project Schedule and any proposed schedule changes.

- ~~Monthly inspection reports generated during the Maintenance and Repair Element of Work. These reports will include:~~
  - ~~Inspection checklists from the previous month's inspection.~~
  - ~~Repairs categorized by location and type that were performed during the previous month.~~
  - ~~Repairs categorized by location and type that need to be performed during the current month and a schedule for performing those repairs.~~

3.2~~3.8~~ Quarterly Progress Report

The Quarterly Progress Report is a consolidated status report on all Work conducted during the reporting period quarter and to be undertaken in the following quarter(s) by Settling Defendants. The Report should be separated into sections reflective of the individual Elements of Work. It should include the following information:

- Description of the Work that was performed during the quarter covered by the report, and master schedule.
- Activities/tasks undertaken during the reporting period, and expected to be undertaken during the next reporting period.
- Deliverables/milestones completed during the reporting period, and expected to be completed during the next reporting period.
- Identification of issues and actions that have been or are being taken to resolve the issues.
- TMs submitted.
- Schedules and schedule changes.
- Evaluation of the effectiveness of the Work being performed in terms of meeting the Performance Standards. Include data and analytical and statistical methods used to support the evaluation.
- Recommendations for corrective measures needed, if any, to meet the Performance Standards.

- ~~The most recent semi-annual inspection reports generated during the Maintenance and Repair Element of Work. These reports will include:~~
  - ~~Inspection checklists from the previous semi-annual inspection.~~

- Repairs categorized by location and type that were performed during the previous quarter.

- Repairs categorized by location and type that need to be performed during the current quarter and a schedule for performing those repairs.

3.10 **Annual Maintenance and Repair Summary Report**

The Annual Maintenance and Repair Summary report shall include the information specified in Section 2.7.3.11.

3.7 3.11 **Project Quality Assurance/Quality Control Plan**

The Project Quality Assurance/Quality Control (QA/QC) Plan establishes the overall quality assurance and quality control tasks, activities, and procedures associated with the Work to be performed by Settling Defendants. The plan should conform to EPA Guidance, including "Interim Guidelines and Specifications for Preparing Quality Assurance Project Plans" December 1980, (QAMS-005/80); "Data Quality Objective Guidance",," (EPA/540/G87/003 and 004) and any updates thereto. The plan should include the following information as applicable:

- Introduction, purpose and summary description of the Work to be performed by Settling Defendants.
- Laboratory QA/QC procedures as applicable including:
  - Data quality objectives;
  - Sampling and sample custody procedures;
  - Analytical methods and procedures;
  - Data reduction and validation;
  - Control procedures, including internal quality control checks;
  - Audits;
  - Routine procedures to assess data quality;
  - Corrective action procedures; and
  - Data transmission to EPA.

- Construction related QA/QC including:
  - QC test frequency, methods, and requirements;
  - Performance testing frequency, methods, and requirements;
  - Acceptance criteria;
  - Criteria for re-testing;
  - Corrective action;
  - Pre-testing notification requirements to EPA;
  - QA test frequency and methods; and
  - Submittals, review, and transmittal procedures.
- Record keeping and reporting
- Project meetings

3.8 ~~3.12~~ Sampling and Analysis Plan

Any required Sampling Plan should establish the overall sampling tasks, activities, and procedures and protocols associated with the Work ~~to be performed by Settling Defendants~~. The Plan should conform to EPA guidance and include the following information:

- Introduction, including purpose and summary description of the Work ~~to be performed by Settling Defendants~~.
- Sampling rationale and objectives.
- Sample designation plans and procedures.
- Sampling equipment and sampling, preservation, preparation and cleaning procedures.
- Chain-of-custody procedures and conformance with other EPA procedures.
- Record keeping, reporting, and transmittal procedures.

4.0 ~~4.0~~ DELIVERABLES

~~4.1~~ This section specifies those deliverables and initiation and completion milestones for various Elements of Work that are subject to stipulated penalties under Section XX of the CD. The required deadlines for these submissions or milestones are specified in Section 5. The CD and this SOW may require the submission of additional documents and additional milestone events, not listed herein.

4.1 ~~4.2~~ General

- ~~•~~ Revised Section 5 of SOW showing actual dates for scheduled items that are dependent on lodging.
- ~~•~~ Final Project Construction Schedule
- ~~•~~ Final Project QA/QC Plan
- ~~•~~ Project Health and Safety Plan
- ~~•~~ Monthly Progress Reports
- ~~•~~ Quarterly Progress Reports
- ~~•~~ Final Second Annual Updated Project Construction Schedule

4.2 ~~4.3 Salvage of Track, Ties, and Other Track Material~~Wallace Yard Element of Work

~~• Final Access and Staging Plan~~

- ~~•~~ Commence Start of the ~~Salvage of Track, Ties, and Other Track Material~~Wallace Yard Element of Work
- ~~•~~ Initiation of Operation Report for the ~~Salvage of Track, Ties, and Other Track Material~~Wallace Yard Element of Work
- ~~•~~ Completion of ~~the Salvage of Track, Ties, and Other Track Material Element of Work~~all components of the Wallace Yard Element of Work
- ~~•~~ Pre-certification Inspection for the ~~Salvage of Track, Ties, and Other Track Material~~Wallace Yard Element of Work
- ~~•~~ Completion of Obligation Report for the ~~Salvage of Track, Ties, and Other Track Material Element of Work~~Wallace Yard Element of Work

~~4.4 Removals, Disposal, and Protective Barriers Element of Work~~

4.3 Hercules Mill Element of Work

- ~~•~~ Final Removal Characterization Sampling and Analysis Plan for Hercules Mill site

~~• Final Reservation Mine Waste Removal Plan~~

- ~~•~~ Commence Start of the ~~Removals, Disposal, and Protective Barriers~~Hercules Mill Element of Work
- ~~•~~ Initiation of Operation Report for the ~~Removals, Disposal, and Protective Barriers~~Hercules Mill Element of Work
- ~~•~~ Completion of all components of the ~~Removals, Disposal, and Protective Barriers~~Hercules Mill Element of Work

~~•~~

- Pre-certification Inspection for ~~all remaining portions of the Removals, Disposal, and Protective Barriers Element of Work for which a Pre-certification Inspection has not been previously requested~~

~~• Completion of Obligation Report for all remaining portions of the Removals, Disposal, and Protective Barriers Element of Work for which a Completion of Obligation Report has not been previously requested~~the Hercules Mill Element of Work

- Completion of Obligation Report for the Hercules Mill Element of Work

4.4 Ninemile Element of Work

- Commence Start of the Ninemile Element of Work
- Initiation of Operation Report for the Ninemile Element of Work
- Completion of all components of the Ninemile Element of Work
- Pre-certification Inspection for the Ninemile Element of Work
- Completion of Obligation Report for the Ninemile Element of Work

4.5 ~~Residential Use Areas~~Canyon Creek Element of Work

~~• Final Residential Use Areas Work Plan~~

- Commence Start of the ~~Residential Use Areas Element of Work~~

~~•~~ Canyon Creek Element of Work

- Initiation of Operation Report for the ~~Residential Use Areas Element of Work~~

~~•~~ Canyon Creek Element of Work

- Completion of ~~the Residential Use Areas Element of Work~~

~~•~~ all components of the Canyon Creek Element of Work

- Pre-certification Inspection for the ~~Residential Use Areas Element of Work~~

~~•~~ Canyon Creek Element of Work

- Completion of Obligation Report for the ~~Residential Use Areas Element of Work~~

~~4.6 **Bridge Element of Work**~~

~~•~~ ~~Final Bridge Inspection Work Plan~~

~~•~~ ~~Final Bridge Inspection Report~~

~~•~~ ~~Final Bridge Repair and Modification Work Plan)~~

~~•~~ ~~Completion of the Bridge Element of Work~~

~~•~~ ~~Pre-certification Inspection for all remaining portions of the Bridge Element of Work for which a Pre-certification Inspection has not been previously requested~~

~~•~~ ~~Completion of Obligation Report for all remaining portions of the Bridge Element of Work for which a Completion of Obligation Report has not been previously requested.~~

~~4.7 **Maintenance and Repair Element of Work**~~

~~•~~ ~~Commence the Start of the Maintenance and Repair Element of Work~~

~~•~~ ~~Initiation of Operation Report for the Maintenance and Repair Element of Work~~

~~•~~ ~~Annual Maintenance and Repair Summary Report~~Canyon Creek Element of Work

4.6 ~~4.8~~ Completion of Work Report

5.0 ~~5.0~~ OVERALL PROJECT SCHEDULE

This section provides schedules required of Settling Defendants for the deliverables and initiation and completion of ~~elements~~the Elements of ~~work~~Work set forth in Section 4. This section also specifies schedules for other submissions and milestone events as well as goals for EPA's review.

5.1 ~~5.1~~ Cooperation

The Settling Parties agree to discuss issues and concerns as necessary prior to submission of documents and comments.

5.2 ~~5.2~~ Timely Review

EPA shall make good faith efforts to meet the goals for their review set forth below.

5.3 General Deliverables and Scheduled Items

Activity	Scheduled Deadlines
Revised Section 5 of SOW showing actual dates for scheduled items that depend on lodging	To be submitted within 3 weeks after ~~lodging~~entry of the CD
Submit Draft Project Construction Schedule	To be submitted within 3 weeks after ~~Lodging~~entry of CD
• EPA Review of the Draft Project Construction Schedule	To be completed within 3 weeks after receipt by EPA
• Re-submission (if a notice of disapproval is received)	To be submitted within 2 weeks or such longer time as specified by EPA after receipt by Settling Defendants of a notice of disapproval.
• Final Project Construction Schedule	To be submitted within ~~two~~2 weeks of receipt by Settling Defendants of EPA's final approval.
Submit Draft Second Annual Update of Project Construction Schedule	To be submitted by February 1, 2010
• EPA Review of the Draft Second Annual Update of Project Construction Schedule	To be completed within 3 weeks after receipt by EPA
• Re-submission (if a notice of disapproval is received)	To be submitted within 2 weeks or such longer time as specified by EPA after receipt by Settling Defendants of a notice of disapproval.
• Final Second Annual Updated Project Construction Schedule	To be submitted within 2 weeks of receipt by Settling Defendants of EPA's final approval.
Project QA/QC Plan	
• Draft Project QA/QC Plan	To be submitted within 5 weeks after ~~lodging~~entry of CD.
• EPA Review of the Draft Project QA/QC Plan	To be completed within 3 weeks after receipt by EPA.
• Re-submission (if a notice of disapproval is received)	To be submitted within 2 weeks or such longer time as specified by EPA after receipt of a

Activity	Scheduled Deadlines
	notice of disapproval.
• Final Project QA/QC Plan	To be submitted within ~~two~~2 weeks of receipt by Settling Defendants of EPA's final approval.
Project Health and Safety Plan	To be submitted within 4 weeks after ~~lodging~~entry of CD.
Monthly Progress Reports	To be submitted by the 10th of the month following the reporting period. The reporting period shall be a calendar month beginning with the first full calendar month after ~~lodging~~entry of the CD.
Quarterly Progress Reports	To be submitted by the 10th of the month following the reporting period. The reporting period shall be a calendar quarter beginning with the first full calendar quarter after ~~lodging~~entry of the CD.
Incident Reports (e.g. Spills, etc.)	As necessary
Technical Memoranda	As necessary

5.4 Wallace Yard Element of Work

Activity	Scheduled Deadlines
Commence Start of the Wallace Yard Element of Work	As per the approved Project Construction Schedule
Initiation of Operation Report for the Wallace Yard Element of Work	To be submitted within 2 weeks after the start of the Wallace Yard Element of Work
Completion of all components of the Wallace Yard Element of Work	As per the approved Project Construction Schedule
Pre-certification Inspection for the Wallace Yard Element of Work	To be requested of EPA by Settling Defendants within 90 days after completion of the Wallace Yard Element of Work
Completion of Obligation Report for the Wallace Yard Element of Work	To be submitted within 30 days after the pre-certification inspection provided that, based on the results of the inspection, Settling Defendants continue to believe that this Element of Work has been fully performed and the Performance Standards attained.

5.5 ~~5.4 Salvage of Track, Ties, and Other Track Material~~Hercules Mill Element of Work

Activity	Scheduled Deadlines
~~Access and Staging Plan~~	
• ~~Draft Access and Staging~~Draft Removal Characterization Sampling and Analysis Plan for the Hercules Mill site as required by Section 2.3.3.3.a.	To be submitted within 30 days after ~~Lodging~~entry of the CD.
• EPA Review of the Draft ~~Access and Staging~~Removal Characterization Sampling and Analysis Plan	To be completed within ~~2~~3 weeks after receipt by EPA.

Activity	Scheduled Deadlines
• Re-submission (if a notice of disapproval is received)	To be submitted within 2 weeks or such longer time as specified by EPA after receipt by Settling Defendants of a notice of disapproval.
• Final ~~Access and Staging~~ Removal Characterization Sampling and Analysis Plan	To be submitted within ~~two~~2 weeks of receipt by Settling Defendants of EPA's final approval.
Commence Start of the ~~Salvage of Track, Ties, and Other Track Material~~Hercules Mill Element of Work	As per the approved Project Construction Schedule
Initiation of Operation Report for the ~~Salvage of Track, Ties, and Other Track Material~~Hercules Mill Element of Work	To be submitted within ~~two~~2 weeks after the start of the ~~Salvage of Track, Ties, and Other Track Material~~Hercules Mill Element of Work
Completion of ~~the Salvage of Track, Ties, and Other Track Material~~all components of the Hercules Mill Element of Work	As per the approved Project Construction Schedule
Pre-certification Inspection for the ~~Salvage of Track, Ties, and Other Track Material~~Hercules Mill Element of Work	To be requested of EPA by Settling Defendants within 90 days after completion of the ~~Salvage of Track, Ties, and Other Track Material~~Hercules Mill Element of Work
Completion of Obligation Report for the ~~Salvage of Track, Ties, and Other Track Material~~Hercules Mill Element of Work	To be submitted within 30 days after the pre-certification inspection provided that, based on the results of the inspection, Settling Defendants continue to believe that this ~~element~~Element of ~~work~~Work has been fully performed and the Performance Standards attained.

~~5.5 Removals, Disposal, and Protective Barriers Element of Work~~

~~Activity~~	~~Scheduled Deadlines~~
~~Draft Removal Characterization Sampling and Analysis Plan as required by Section 2.4.3.3.b.~~	~~To be submitted within 30 days aftrer lodging of the CD.~~
~~• EPA Review of the Draft Removal Characterization Sampling and Analysis Plan~~	~~To be completed within 3 weeks after receipt by EPA.~~
~~• Re-submission (if a notice of disapproval is received)~~	~~To be submitted within 2 weeks or such longer time as specified by EPA after receipt by Settling Defendants of a notice of disapproval.~~
~~• Final Removal Characterization Sampling and Analysis Plan~~	~~To be submitted within two weeks of receipt by Settling Defendants of EPA's final approval.~~
~~Commence Start of the Removals, Disposal, and Protective Barriers Element of Work~~	~~As per the approved Project Construction Schedule~~
~~Initiation of Operation Report for the Removals, Disposal, and Protective Barriers Element of Work~~	~~To be submitted within two weeks after the start of the Removals, Disposal, and Protective Barriers Element of Work~~
~~Completion of all components of the Removals, Disposal, and Protective Barriers Element of Work~~	~~As per the approved Project Construction Schedule~~
~~Pre-certification Inspection for all remaining portions of the Removals, Disposal, and Protective Barriers Element of Work for which a Pre-~~	~~To be requested of EPA by Settling Defendants within 90 days after completion of all~~

Activity	Scheduled Deadlines
certification Inspection has not been previously requested	remaining portions of the Removals, Disposal, and Protective Barriers Element of Work for which a Pre-certification Inspection has not been previously requested.
Completion of Obligation Report for all remaining portions of the Removals, Disposal, and Protective Barriers Element of Work for which a Completion of Obligation Report has not been previously requested	To be submitted within 30 days after the pre-certification inspection provided that, based on the results of the inspection, Settling Defendants continue to believe that this element of work has been fully performed and the Performance Standards attained.

5.6 ~~Residential Use Areas Element of Work~~Ninemile Element of Work

Activity	Scheduled Deadlines
Residential Use Area Work Plan	
• Submit encroachment information to Governments	To be submitted within 8 weeks after lodging of the CD.
• Governments decide on resolution for encroachments	To be completed within 8 weeks after receipt by the State of available encroachment information.
• Draft Residential Use Area Work Plan	To be submitted within 6 weeks after receipt by Settling Defendants of EPA decision on resolution for encroachments.
• EPA Review of Draft Residential Use Area Work Plan	To be completed within 3 weeks after receipt by EPA.
• Re-submission (if a notice of disapproval is received)	To be submitted within 2 weeks or such longer time as specified by EPA after receipt of a notice of disapproval.
• Final Residential Use Area Work Plan	To be submitted within two weeks of receipt by Settling Defendants of EPA's final approval.
Commence Start of the Residential Use Areas Element of Work	As per the approved Project Construction Schedule
Initiation of Operation Report for the Residential Use Areas Element of Work	To be submitted within two weeks after the start of the Residential Use Areas Element of Work.
Completion of the Residential Use Areas Element of Work	As per the approved Project Construction Schedule
Pre-certification Inspection for the Residential Use Areas Element of Work	To be requested of EPA by Settling Defendants within 90 days after completion of the Residential Use Areas Element of Work.
Completion of Obligation Report for the Residential Use Areas Element of Work	To be submitted within 30 days after the pre-certification inspection provided that, based on the results of the inspection, Settling Defendants continue to believe that this element of work has been fully performed and the Performance Standards attained.

Activity	Scheduled Deadlines
Commence Start of the Ninemile Element of Work	As per the approved Project Construction Schedule
Initiation of Operation Report for the Ninemile Element of Work	To be submitted within 2 weeks after the start of the Ninemile Element of Work
Completion of all components of the Ninemile Element of Work	As per the approved Project Construction Schedule
Pre-certification Inspection for the Ninemile Element of Work	To be requested of EPA by Settling Defendants within 90 days after completion of the Ninemile Element of Work
Completion of Obligation Report for the Ninemile Element of Work	To be submitted within 30 days after the pre-certification inspection provided that, based on the results of the inspection, Settling Defendants continue to believe that this Element of Work has been fully performed and the Performance Standards attained.

5.7 ~~Trail~~Canyon Creek Element of Work

~~Activity~~	~~Scheduled Deadlines~~
~~Bridge Inspection Work Plan~~	
~~• Draft Bridge Inspection Work Plan~~	~~To be submitted within 8 weeks after lodging of the CD.~~
~~• EPA Review of the Draft Bridge Inspection Work Plan~~	~~To be completed within 3 weeks after receipt by EPA.~~
~~• Re-submission (if a notice of disapproval is received)~~	~~To be submitted within 2 weeks or such longer time as specified by EPA after receipt by Settling Defendants of a notice of disapproval.~~
~~• Final Bridge Inspection Work Plan~~	~~To be submitted within two weeks of receipt by Settling Defendants of EPA's final approval.~~
~~Bridge Inspection Report~~	
~~• Draft Bridge Inspection Report~~	~~To be submitted within 6 weeks after completion of the inspections.~~
~~• EPA Review of the Draft Bridge Inspection Report~~	~~To be completed within 3 weeks after receipt by EPA.~~
~~• Re-submission (if a notice of disapproval is received)~~	~~To be submitted within 2 weeks or such longer time as specified by EPA after receipt by Settling Defendants of a notice of disapproval.~~
~~• Final Bridge Inspection Report~~	~~To be submitted within two weeks of receipt by Settling Defendants of EPA's final approval.~~
~~Bridge Repair and Modification Work Plan~~	
~~• Draft Bridge Repair and Modification Work Plan~~	~~To be submitted within 6 weeks after EPA's approval of the Bridge Inspection Report.~~
~~• EPA Review of the Draft Bridge Repair and Modification Work Plan~~	~~To be completed within 3 weeks after receipt by EPA.~~
~~• Re-submission (if a notice of disapproval is received)~~	~~To be submitted within 2 weeks or such longer time as specified by EPA after receipt by Settling Defendants of a notice of disapproval.~~

~~Activity~~	~~Scheduled Deadlines~~
• ~~Final Bridge Repair and Modification Work Plan~~	~~To be submitted within two weeks of receipt by Settling Defendants of EPA's final approval.~~
~~Completion of Obligation Report for all remaining portions of the Bridge Element of Work for which a Completion of Obligation Report has not been previously requested~~	~~To be submitted within 30 days after the pre-certification inspection provided that, based on the results of the inspection, Settling Defendants continue to believe that this element of work has been fully performed and the Performance Standards attained.~~

~~5.8 Maintenance and Repair Element of Work~~

~~Activity~~	~~Schedule~~
~~Flowchart of Inspection Procedures as Defined in the M&R Plan~~	~~Within 26 weeks after lodging of the CD.~~
~~Commence Start of the Maintenance and Repair Element of Work on all portions of the ROW~~	~~Within 30 days after receipt by Settling Defendants of EPA's approval of the Completion of Obligation Report for all Elements of Work except Maintenance and Repair~~
~~Initiation of Operation Report for Maintenance and Repair Element of Work on all portions of the Site~~	~~Within two weeks of the start of Maintenance and Repair Element of Work on all portions of the Site~~
~~Annual Maintenance and Repair Summary Report~~	~~To be submitted by April 1st following the reporting period covered by the report. The reporting period shall be a calendar year beginning with the first calendar year in which the start of the Maintenance and Repair Element of Work on any portion of the ROW commences.~~

Activity	Scheduled Deadlines
Commence Start of the Canyon Creek Element of Work	As per the approved Project Construction Schedule
Initiation of Operation Report for the Canyon Creek Element of Work	To be submitted within 2 weeks after the start of the Canyon Creek Element of Work
Completion of all components of the Canyon Creek Element of Work	As per the approved Project Construction Schedule
Pre-certification Inspection for the Canyon Creek Element of Work	To be requested of EPA by Settling Defendants within 90 days after completion of the Canyon Creek Element of Work.
Completion of Obligation Report for the Canyon Creek Element of Work	To be submitted within 30 days after the pre-certification inspection provided that, based on the results of the inspection, Settling Defendants continue to believe that this Element of Work has been fully performed and the Performance Standards attained.

5.8 ~~5.9~~ **Completion of Work Report**

Activity	Schedule
Pre-certification Inspection for all Elements of the Work for which Completion of Obligation Reports were not previously submitted and approved	To be requested of EPA by Settling Defendants within 90 after Settling Defendants conclude that all Elements of the Work ~~(including Maintenance and Repair)~~for which Completion of Obligation Reports were not previously submitted and approved have been fully performed.
Completion of Work Report	To be submitted within 30 days after the pre-certification inspection provided that, based on

Activity	Schedule
	the results of the inspection, Settling Defendants continue to believe that all Elements of Work ~~has~~for which Completion of Obligation Reports were not previously submitted and approved have been fully performed.

~~**TABLES**~~
~~**Table 2.5.3-1**~~
~~**Action Levels for Residential Use Areas**~~

If Interval Equals or Exceeds Action Level		If Interval Less than Action Level		Remediation Depth
0 - 1"		1 - 6", 6 - 12"		6"
1 - 6"		0 - 1", 6 - 12"		6"
6 - 12"		0 - 1", 1 - 6"		12"
12 - 18"		0 - 1", 1 - 6", 6 - 12"		NO REMEDIATION
0 - 1", 1 - 6"	AND	6 - 12"	THEN	6"
0 - 1", 6 - 12"		1 - 6"		12"
1 - 6", 6 - 12"		0 - 1"		12"
NONE		0 - 1", 1 - 6", 6 - 12"		NO REMEDIATION